

# Texas Historical Statutes Project

1950 SUPPLEMENT  
TO  
VERNON'S TEXAS STATUTES 1948



This project was made possible by the  
**Texas State Law Library.**

Digitized with permission from



THOMSON REUTERS

# VERNON'S TEXAS STATUTES 1950 SUPPLEMENT

Covering Laws of a General and Permanent Nature  
Enacted by the 51st Legislature at the Regular  
and First Called Sessions

TABLES and INDEX

Directly Supplementing  
Vernon's Texas Statutes 1948

KANSAS CITY, MO.  
VERNON LAW BOOK COMPANY

COPYRIGHT, 1950  
BY  
VERNON LAW BOOK COMPANY

Tex. St. Supp. '50

# 1950 SUPPLEMENT

---

THIS Supplement to **Vernon's Texas Statutes 1948** includes the laws of a general and permanent nature of the Regular Session and the First Called Session of the 51st Legislature.

The Regular Session of the 51st Legislature convened January 11, 1949, and adjourned July 6, 1949. The First Called Session convened January 31, 1950, and adjourned March 1, 1950.

The 1950 Supplement as well as **Vernon's Texas Statutes 1948** are under the same classification and arrangement as **Vernon's Annotated Texas Statutes**. This means that users of this volume and of the 1948 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 the state and federal courts, as well as complete historical data relative to the origin and development of the law, is immediately and currently available.

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

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

VERNON LAW BOOK COMPANY

May, 1950

## Cite This Book by Article

Vernon's Texas Civ. St., 1950 Supp. Art. —

Vernon's Texas P. C., 1950 Supp. Art. —

Vernon's Texas C. C. P., 1950 Supp. Art. —

# TABLE OF CONTENTS

---

	Page
Judges and Officers - - - - -	VII
Officials of the State of Texas - - - - -	IX
Officers and Members - - - - -	XI
Constitution of Texas - - - - -	XVII
Index to Constitution - - - - -	XXIII
Civil Statutes - - - - -	1
Texas Rules of Civil Procedure - - - - -	709
Penal Code - - - - -	725
Code of Criminal Procedure - - - - -	819
Table of Session Laws - - - - -	825
Table of Repealed Laws - - - - -	839
General Index - - - - -	841

•



# JUDGES AND OFFICERS

---

## SUPREME COURT

E. HICKMAN, CHIEF JUSTICE

JOHN H. SHARP, ASSOCIATE JUSTICE

JAMES P. HART, ASSOCIATE JUSTICE

G. B. SMEDLEY, ASSOCIATE JUSTICE

W. ST. JOHN GARWOOD, ASSOCIATE JUSTICE

W. M. TAYLOR, ASSOCIATE JUSTICE

R. H. HARVEY, ASSOCIATE JUSTICE

FEW BREWSTER, ASSOCIATE JUSTICE

MEADE F. GRIFFIN, ASSOCIATE JUSTICE

GEORGE A. TEMPLIN, CLERK

J. P. BYRNE, CHIEF DEPUTY CLERK

---

## COURT OF CRIMINAL APPEALS

FRANK LEE HAWKINS, PRESIDING JUDGE

HARRY N. GRAVES, JUDGE

TOM L. BEAUCHAMP, JUDGE

LLOYD W. DAVIDSON, COMMISSIONERS

K. K. WOODLEY, COMMISSIONERS

OLIN W. FINGER, CLERK

VERNER STOHL, SECRETARY AND BAILIFF

---

## COURTS OF CIVIL APPEALS

### *First District—Galveston*

WALTER E. MONTEITH, CHIEF JUSTICE

GEORGE W. GRAVES, ASSOCIATE JUSTICE

T. H. CODY, ASSOCIATE JUSTICE

RALPH W. RICHESON, CLERK

### *Second District—Fort Worth*

ATWOOD McDONALD, CHIEF JUSTICE

JOHN SPEER, ASSOCIATE JUSTICE

EARL P. HALL, ASSOCIATE JUSTICE

MRS. R. M. BURKHALTER, DEPUTY CLERK

### *Third District—Austin*

ROY C. ARCHER, CHIEF JUSTICE

ROBERT G. HUGHES, ASSOCIATE JUSTICE

RAYMOND GRAY, ASSOCIATE JUSTICE

MRS. R. E. MOORE, CLERK

### *Fourth District—San Antonio*

W. O. MURRAY, CHIEF JUSTICE

JAMES R. NORVELL, ASSOCIATE JUSTICE

L. BROETER, ASSOCIATE JUSTICE

ROBERT L. COOK, CLERK



JUDGES AND OFFICERS

COURTS OF CIVIL APPEALS—Cont'd.

*Fifth District—Dallas*

JOEL R. BOND, CHIEF JUSTICE

TOWNE YOUNG, ASSOCIATE JUSTICE

WM. M. CRAMER, ASSOCIATE JUSTICE

JUSTIN G. BURT, CLERK

*Sixth District—Texarkana*

REUBEN A. HALL, CHIEF JUSTICE

I. N. WILLIAMS, ASSOCIATE JUSTICE

ELMER L. LINCOLN, ASSOCIATE JUSTICE

M. E. MERRILL, CLERK

*Seventh District—Amarillo*

E. L. PITTS, CHIEF JUSTICE

W. N. STOKES, ASSOCIATE JUSTICE

JAMES G. LUMPKIN, ASSOCIATE JUSTICE

ELMO PAYNE, CLERK

*Eighth District—El Paso*

P. R. PRICE, CHIEF JUSTICE

C. R. SUTTON, ASSOCIATE JUSTICE

JOSEPH MCGILL, ASSOCIATE JUSTICE

E. J. REDDING, CLERK

*Ninth District—Beaumont*

THOMAS B. COE, CHIEF JUSTICE

R. L. MURRAY, ASSOCIATE JUSTICE

CHARLES B. WALKER, ASSOCIATE JUSTICE

ELIZABETH LEBLANC, CLERK

*Tenth District—Waco*

GILES P. LESTER, CHIEF JUSTICE

JAKE TIREY, ASSOCIATE JUSTICE

JOSEPH W. HALE, ASSOCIATE JUSTICE

RUTH SAPP, CLERK

*Eleventh District—Eastland*

CLYDE GRISSOM, CHIEF JUSTICE

M. S. LONG, ASSOCIATE JUSTICE

CECIL C. COLLINGS, ASSOCIATE JUSTICE

HOMER SMITH, CLERK

PRICE DANIEL, ATTORNEY GENERAL

JOE R. GREENHILL, FIRST ASSISTANT

CHARLES D. MATHEWS, EXECUTIVE ASSISTANT

DAVID B. IRONS, ADMINISTRATIVE ASSISTANT

**OFFICIALS**  
**OF**  
**THE STATE OF TEXAS**

---

ALLAN SHIVERS - - - Governor - - - - - Port Arthur  
GRADY HAZLEWOOD - Acting Lieutenant Governor - - - - Amarillo  
WARDLOW LANE - - - Acting Lieutenant Governor - - - - Center  
(Since March 1, 1950)  
PRICE DANIEL - - - - Attorney General - - - - - Liberty  
JOHN BEN SHEPPERD - Secretary of State - - - - - Gladewater  
JESSE JAMES - - - - State Treasurer - - - - - Austin  
J. E. McDONALD - - - Commissioner of Agriculture - - - - Austin  
BASCOM GILES - - - - Commissioner of General Land Office - - Austin  
ROBERT S. CALVERT - Comptroller of Public Accounts - - - - Austin  
JAMES M. FALKNER - - Banking Commissioner - - - - - Austin  
CHARLES H. CAVNESS - State Auditor - - - - - Austin

•



# SENATE

PRESIDENT PRO TEMPORE - - - - - Grady Hazlewood  
 SECRETARY - - - - - Mrs. Loyce M. Bell

<i>Name</i>	<i>District</i>
Aikin, A. M., Jr. - - - - - Paris - - - - -	8
Ashley, Carlos - - - - - Llano - - - - -	20
Bell, John J. - - - - - Cuero - - - - -	18
Bracewell, Searcy - - - - - Houston - - - - -	16
Bullock, Pat - - - - - Colorado City - - - - -	24
Carney, Howard A. - - - - - Atlanta - - - - -	1
Colson, Mrs. Neveille H. - - - - - Navasota - - - - -	5
Corbin, Kilmer B. - - - - - Lamesa - - - - -	30
Cousins, W. R., Jr. - - - - - Beaumont - - - - -	4
Hardeman, Dorsey B. - - - - - San Angelo - - - - -	25
Harris, Fred Red - - - - - Dallas - - - - -	11
Hazlewood, Grady - - - - - Amarillo - - - - -	31
Hudson, Hill D. - - - - - Pecos - - - - -	29
Jones, Chas. R. - - - - - Bonham - - - - -	9
Kelley, Rogers - - - - - Edinburg - - - - -	27
Kelly, Keith F. - - - - - Fort Worth - - - - -	28
Lane, Wardlow W. - - - - - Center - - - - -	2
Lock, Ottis E. - - - - - Lufkin - - - - -	3
Martin, Crawford C. - - - - - Hillsboro - - - - -	12
McDonald, Warren - - - - - Tyler - - - - -	7
Moffett, George - - - - - Chillicothe - - - - -	23
Moore, William T. - - - - - Bryan - - - - -	14
Morris, G. C. - - - - - Greenville - - - - -	10
Nokes, George O., Jr. - - - - - Corsicana - - - - -	6
Phillips, Jimmy - - - - - Angleton - - - - -	17
Proffer, R. L. - - - - - Denton - - - - -	22
Shofner, W. A. - - - - - Temple - - - - -	21
Strauss, Gus J. - - - - - Hallettsville - - - - -	15
Tynan, Walter - - - - - San Antonio - - - - -	26
Vick, Kyle - - - - - Waco - - - - -	13
Weinert, R. A. - - - - - Seguin - - - - -	19

# HOUSE OF REPRESENTATIVES

SPEAKER - - - - - Durwood Manford

CHIEF CLERK - - - - - Clarence Jones

<i>Name</i>	<i>District</i>
Abington, W. H. (Bill) - - - - - Fort Worth - - - - -	101 Pl. 2
Aynesworth, J. K. - - - - - Waco - - - - -	97 Pl. 2
Bean, Woodrow W. - - - - - El Paso - - - - -	89-2
Bell, Marshall O. - - - - - San Antonio - - - - -	78 Pl. 4
Benton, Capt. J. A. - - - - - Wylie - - - - -	45f
Bergman, Douglas E. - - - - - Dallas - - - - -	50 Pl. 5
Blount, R. E., Peppy Jr. - - - - - Big Spring - - - - -	91
Bradshaw, Floyd - - - - - Weatherford - - - - -	103
Briscoe, Dolph, Jr. - - - - - Uvalde - - - - -	77
Brooks, Jack B. - - - - - Beaumont - - - - -	16 Pl. 1
Brooks, Phil - - - - - Bagwell - - - - -	36
Bryan, Jack C. - - - - - Buffalo - - - - -	56
Cannon, O. E. - - - - - Corpus Christi - - - - -	71
Carter, Joe D. - - - - - Sherman - - - - -	44 Pl. 2
Casey, Bob - - - - - Houston - - - - -	19 Pl. 1
Cassity, O. A., Jr. - - - - - Long Branch - - - - -	7
Caston, L. P. - - - - - Leonard - - - - -	38f
Caven, Walter - - - - - Marshall - - - - -	5
Chambers, W. R. - - - - - May - - - - -	125
Cheatham, Tom - - - - - Cuero - - - - -	68
Childress, Hiram - - - - - Sweetwater - - - - -	117
Clifton, Davis - - - - - Farmersville - - - - -	43
Collie, T. M. - - - - - Eastland - - - - -	106
Cox, Jack - - - - - Breckenridge - - - - -	108
Craig, William J. (Bill) - - - - - Miami - - - - -	124
Crosthwait, John L. - - - - - Dallas - - - - -	50 Pl. 1
Daniel, Bill - - - - - Liberty - - - - -	14
Etheredge, M. B., Jr. - - - - - Huntsville - - - - -	29
Flanagan, Alford H. - - - - - Talco - - - - -	35
Fleming, Joe B. - - - - - Henderson - - - - -	8
Fly, William S. - - - - - Victoria - - - - -	69
Gandy, Joe W. - - - - - Winnsboro - - - - -	126f
Gardner, C. C. - - - - - Gainesville - - - - -	46
Gathings, D. D. - - - - - Cleburne - - - - -	99

**HOUSE OF REPRESENTATIVES**

<i>Name</i>	<i>District</i>
Godard, Louie D. (Duke) - - - - -	Texas City - - - - - 17f
Graham, Callan - - - - -	Junction - - - - - 86
Gray, J. F. - - - - -	Three Rivers - - - - - 76
Gregory, Sid - - - - -	Gatesville - - - - - 94
Gromatzky, Arthur E. - - - - -	Mullin - - - - - 104
Hanna, Sam - - - - -	Dallas - - - - - 50 Pl. 3
Hardee, Jack Y. - - - - -	Chandler - - - - - 54
Heflin, J. M. - - - - -	Houston - - - - - 19 Pl. 4
Heideke, H. A. - - - - -	Seguin - - - - - 80
Henderson, Mrs. A. Robin - - - - -	Groesbeck - - - - - 61
Holstein, L. L. - - - - -	Pandora - - - - - 79
Horany, Jimmy P. - - - - -	Archer City - - - - - 110
Hughes, Edward P. - - - - -	Newton - - - - - 13
Hull, H. A. (Salty) - - - - -	Ft. Worth - - - - - 101 Pl. 4
Isaacks, S. J. - - - - -	El Paso - - - - - 89 Pl. 1
Ivey, Louis J. - - - - -	El Paso - - - - - 90f
Jackson, Robert Hal - - - - -	Denton - - - - - 49
James, Andy M. - - - - -	Hillsboro - - - - - 59
Jobe, Billie M. - - - - -	Putnam - - - - - 107f
Johnson, Pearce - - - - -	Austin - - - - - 82 Pl. 1
Jones, Albert M. - - - - -	Valley Mills - - - - - 98f
Kazen, Abraham, Jr. - - - - -	Laredo - - - - - 75
Kilgore, Joe M. - - - - -	McAllen - - - - - 73
King, Leslie - - - - -	Vernon - - - - - 112f
Kirkpatrick, Ray - - - - -	Trenton - - - - - 41
La Font, Harold M. - - - - -	Plainview - - - - - 120
Latimer, O. E. - - - - -	San Antonio - - - - - 78 Pl. 5
Lee, Otis - - - - -	Port Arthur - - - - - 16 Pl. 2
Lehman, Henry G. - - - - -	Giddings - - - - - 65f
Lewis, Don A. - - - - -	Midlothian - - - - - 100 Pl. 2
Lindsey, Jim T. - - - - -	Boston - - - - - 1
Loving, J. W. (Bill) - - - - -	Graham - - - - - 109
Luedemann, Dr. J. A. - - - - -	Brenham - - - - - 24
McCann, Newlon W. - - - - -	Texarkana - - - - - 3f
McCorkle, Claude H. - - - - -	Sulphur Springs - - - - - 39
McDaniel, Vernon - - - - -	Wichita Falls - - - - - 111 Pl. 2
McDonald, John B. - - - - -	Palestine - - - - - 55
McGregor, Frank B. - - - - -	Waco - - - - - 96f
McIlhany, Grainger W. - - - - -	Wheeler - - - - - 122
McKnight, C. P., Jr. - - - - -	Quitman - - - - - 34
McLellan, C. S. - - - - -	Eagle Lake - - - - - 25
Manford, Durwood - - - - -	Smiley - - - - - 67
Mangum, Preston P. - - - - -	Dallas - - - - - 51f
Meredith, Fred V. - - - - -	Terrell - - - - - 52
Miller, Wm. A. (Bill), Jr. - - - - -	Houston - - - - - 19 Pl. 5
Moore, Carlton, Sr. - - - - -	Houston - - - - - 19 Pl. 3
Morrison, John E., Jr. - - - - -	Chillicothe - - - - - 114
Moursund, A. W. - - - - -	Johnson City - - - - - 85
Murray, Menton J. - - - - -	Harlingen - - - - - 72
Niemann, Fred - - - - -	Yoakum - - - - - 23
Norton, James L., Jr. - - - - -	Nacogdoches - - - - - 9
Oltorf, Frank C. - - - - -	Marlin - - - - - 62

**HOUSE OF REPRESENTATIVES**

<i>Name</i>	<i>District</i>
Parkhouse, George	Dallas 50 Pl. 4
Paschall, H. F.	Milano 64
Pattison, James B.	Pattison 20
Pearson, G. P., Jr.	Navasota 27f
Perry, Franklin	Angleton 21
Perry, H. G.	Stephenville 105
Peterson, Dudley W.	Galveston 18
Presnal, James K.	Tabor 26
Pyle, Joe	Fort Worth 101 Pl. 1
Rampy, W. H.	Winters 92
Reed, W. O.	Dallas 50 Pl. 2
Richards, Wm. Geo.	Lockhart 81-1
Ridgeway, Jack F.	San Antonio 78 Pl. 3
Rogers, A. J.	Childress 121
Rogers, Johnnie B.	Austin 82 Pl. 2
Rust, Lloyd G., Jr.	Wharton 22
Rutherford, J. T.	Odessa 88
Senterfitt, Reuben E.	San Saba 93
Sewell, James	Blooming Grove 58
Shannon, Joe	Fort Worth 102f
Shell, Harvey	Gregory 70
Slimp, L. C., Jr.	Decatur 48
Smith, Max C.	San Marcos 81 Pl. 2
Smith, Preston E.	Lubbock 119
Spacek, R. B.	Fayetteville 66
Sparks, James T.	Sherman 44 Pl. 1
Staton, Hiram	Waco 97 Pl. 1
Steward, Jerry A.	Fairfield 57
Still, Mrs. Rae Files	Waxahachie 100 Pl. 1
Stockard, Jerry T.	Corsicana 60f
Storey, Cecil	Longview 6f
Stovell, Tom H.	Alpine 87
Stump, William R.	Georgetown 84f
Svadlenak, Frank	Thrall 83
Swindell, Wm. A.	Commerce 42f
Tatum, Raymond T. R.	Huntington 12
Teague, William B.	Anson 115
Thomas, M. K.	Wills Point 53
Timmons, J. Blake	Amarillo 123
Tinsley, Byron R.	Greenville 40
Tippen, W. K. (Bill)	Abilene 116
Tufares, Deno A.	Wichita Falls 111 Pl. 1
Turner, Surry	Gilmer 4
Vale, A. J.	Rio Grande City 74
Wagonseller, Wayne W.	Stoneburg 47
Walker, Miller B.	Beaumont 15f
Watson, George W.	Paris 37
Whiteside, Clyde	Seymour 113
Whiteside, Tom	Tyler 33f
Whitworth, Harry	Smithville 127
Wilkinson, Milton	Patroon 10
Williams, Eugene C.	San Antonio 78 Pl. 2

**HOUSE OF REPRESENTATIVES**

<i>Name</i>	<i>District</i>
Williams, Sterling W. - - - - - Snyder - - - - -	118
Williamson, W. A. - - - - - San Antonio - - - - -	78 Pl. 1
Willis, Doyle - - - - - Fort Worth - - - - -	101 Pl. 3
Wilson, Paul S. - - - - - Geneva - - - - -	11
Windham, James Marvin - - - - - Livingston - - - - -	28
Wisener, Jack K. - - - - - Wells - - - - -	31
Wood, Bill - - - - - Tyler - - - - -	32
Wood, Clifford W. - - - - - Crockett - - - - -	30
Woodruff, Jeff - - - - - Houston - - - - -	19 Pl. 2
Yezak, Herman - - - - - Bremond - - - - -	63
Young, Cloyd D. - - - - - Linden - - - - -	2
Zivley, Lamar - - - - - Temple - - - - -	95

•





# CONSTITUTION OF THE STATE OF TEXAS

---

## ARTICLE III

### LEGISLATIVE DEPARTMENT

#### Sec. 28.

The Legislature shall, at its first regular session after the publication of each United States decennial census, apportion the state into senatorial and representative districts, agreeable to the provisions of Sections 25, 26, and 26-a of this Article. In the event the Legislature shall at any such first regular session following the publication of a United States decennial census, fail to make such apportionment, same shall be done by the Legislative Redistricting Board of Texas, which is hereby created, and shall be composed of five (5) members, as follows: The Lieutenant Governor, the Speaker of the House of Representatives, the Attorney General, the Comptroller of Public Accounts and the Commissioner of the General Land Office, a majority of whom shall constitute a quorum. Said Board shall assemble in the City of Austin within ninety (90) days after the final adjournment of such regular session. The Board shall, within sixty (60) days after assembling, apportion the state into senatorial and representative districts, or into senatorial or representative districts, as the failure of action of such Legislature may make necessary. Such apportionment shall be in writing and signed by three (3) or more of the members of the Board duly acknowledged as the act and deed of such Board, and, when so executed and filed with the Secretary of State, shall have force and effect of law. Such apportionment shall become effective at the next succeeding statewide general election. The Supreme Court of Texas shall have jurisdiction to compel such Commission to perform its duties in accordance with the provisions of this section by writ of mandamus or other extraordinary writs conformable to the usages of law. The Legislature shall provide necessary funds for clerical and technical aid and for other expenses incidental to the work of the Board, and the Lieutenant Governor and the Speaker of the House of Representatives shall be entitled to receive per diem and travel expense during the Board's session in the same manner and amount as they would receive while attending a special session of the Legislature. This amendment shall become effective January 1, 1951. Sec. 28, Art. 3, adopted election Nov. 2, 1948.

#### Sec. 48-d.

The Legislature shall have the power to provide for the establishment and creation of rural fire prevention districts and to authorize a tax on the ad valorem property situated in said districts not to exceed

## CONSTITUTION

Three (3¢) Cents on the One Hundred (\$100.00) Dollars valuation for the support thereof; provided that no tax shall be levied in support of said districts until approved by vote of the people residing therein. Sec. 48-d. Art. 3, adopted election Nov. 6, 1949.

### Sec. 60.

The Legislature shall have the power to pass such laws as may be necessary to enable all counties of this State to provide Workman's Compensation Insurance, including the right to provide its own insurance risk, for all county employees as in its judgment is necessary or required; and the Legislature shall provide suitable laws for the administration of such insurance in the counties of this State and for the payment of the costs, charges and premiums on such policies of insurance and the benefits to be paid thereunder. Sec. 60, Art. 3, adopted election Nov. 2, 1948.

## ARTICLE IV

### EXECUTIVE DEPARTMENT

#### Sec. 3a.

If, at the time the Legislature shall canvass the election returns for the offices of Governor and Lieutenant Governor, the person receiving the highest number of votes for the office of Governor, as declared by the Speaker, has died, then the person having the highest number of votes for the office of Lieutenant Governor shall act as Governor until after the next general election. It is further provided that in the event the person with the highest number of votes for the office of Governor, as declared by the Speaker, shall become disabled, or fail to qualify, then the Lieutenant Governor shall act as Governor until a person has qualified for the office of Governor, or until after the next general election. Any succession to the Governorship not otherwise provided for in this Constitution, may be provided for by law; provided, however, that any person succeeding to the office of Governor shall be qualified as otherwise provided in this Constitution, and shall, during the entire term to which he may succeed, be under all the restrictions and inhibitions imposed in this Constitution on the Governor. Sec. 3a, Art. 4, adopted election Nov. 2, 1948.

## ARTICLE V

### JUDICIAL DEPARTMENT

#### Sec. 1-a.

The Legislature shall provide for the retirement and compensation of Judges and Commissioners of the Appellate Courts and Judges of the District and Criminal District Courts on account of length of service, age or disability, and for their reassignment to active duty where and when needed. Sec. 1-a, Art. 5, adopted election Nov. 2, 1948.

## CONSTITUTION

### Sec. 7

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

The Legislature shall also provide for the holding of District Court when the Judge thereof is absent, or is from any cause disabled or disqualified from presiding.

The District Judges who may be in office when this Amendment takes effect shall hold their offices until their respective terms shall expire under their present election or appointment. Section 7, Art. 5, adopted election Nov. 6, 1949.

## ARTICLE VIII

### TAXATION AND REVENUE

#### Sec. 1-a

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

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

## CONSTITUTION

so levied, the portion of such taxes remaining over and above such donation shall be retained by said county or subdivision. Sec. 1-a, Art. 8, adopted election Nov. 2, 1948.

### Sec. 1-b

Three Thousand Dollars (\$3,000) of the assessed taxable value of all residence homesteads as now defined by law shall be exempt from all taxation for all State purposes. Sec. 1-b, Art. 8, adopted Nov. 2, 1948.

### Sec. 1-c

Provided, however, the terms of this Resolution shall not be effective unless House Joint Resolution No. 24 is adopted by the people and in no event shall this Resolution go into effect until January 1, 1951. Sec. 1-c, Art. 8, approved election Nov. 2, 1948.

## ARTICLE XVI

### GENERAL PROVISIONS

#### Sec. 15

All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise or descent, shall be the separate property of the wife; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as that held in common with her husband; provided that husband and wife, without prejudice to pre-existing creditors, may from time to time by written instrument as if the wife were a feme sole partition between themselves in severalty or into equal undivided interests all or any part of their existing community property, or exchange between themselves the community interest of one spouse in any property for the community interest of the other spouse in other community property, whereupon the portion or interest set aside to each spouse shall be and constitute a part of the separate property of such spouse.

This Amendment is self-operative, but laws may be passed prescribing requirements as to the form and manner of execution of such instruments, and providing for their recordation, and for such other reasonable requirements not inconsistent herewith as the Legislature may from time to time consider proper with relation to the subject of this Amendment. Should the Legislature pass an Act dealing with the subject of this Amendment and prescribing requirements as to the form and manner of the execution of such instruments and providing for their recordation and other reasonable requirements not inconsistent herewith and anticipatory hereto, such Act shall not be invalid by reason of its anticipatory character and shall take effect just as though this Constitutional Amendment was in effect when the Act was passed. Sec. 15, Art. 16, adopted Nov. 2, 1948.

#### Sec. 61.

All district officers in the State of Texas and all county officers in counties having a population of twenty thousand (20,000) or more, according to the then last preceding Federal Census, shall be compensated on a salary basis. In all counties in this State, the Commis-

## CONSTITUTION

sioners Courts shall be authorized to determine whether precinct officers shall be compensated on a fee basis or on a salary basis, with the exception that it shall be mandatory upon the Commissioners Courts, to compensate all constables, deputy constables and precinct law enforcement officers on a salary basis beginning January 1, 1949; and in counties having a population of less than twenty thousand (20,000), according to the then last preceding Federal Census, the Commissioners Courts shall also have the authority to determine whether county officers shall be compensated on a fee basis or on a salary basis, with the exception that it shall be mandatory upon the Commissioners Courts to compensate all sheriffs, deputy sheriffs, county law enforcement officers including sheriffs who also perform the duties of assessor and collector of taxes, and their deputies, on a salary basis beginning January 1, 1949.

All fees earned by district, county and precinct officers shall be paid into the county treasury where earned for the account of the proper fund, provided that fees incurred by the State, county and any municipality, or in case where a pauper's oath is filed, shall be paid into the county treasury when collected and provided that where any officer is compensated wholly on a fee basis such fees may be retained by such officer or paid into the treasury of the county as the Commissioners Court may direct. All Notaries Public, county surveyors and public weighers shall continue to be compensated on a fee basis. Sec. 61, Art. 16, adopted election Nov. 2, 1948.

\*



# INDEX TO CONSTITUTION OF THE STATE OF TEXAS

## APPORTIONMENT

Senatorial and representative districts, apportionment by Legislative Redistricting Board, Art. III, § 28.

## ATTORNEY GENERAL

Member of Legislative Redistricting Board, Art. III, § 28.

## COMMISSIONER OF GENERAL LAND OFFICE

Member of Legislative Redistricting Board, Art. III, § 28.

## COMMISSIONERS COURTS

Compensation of constables, deputies, and precinct law enforcement officers on salary basis, mandatory requirement, Art. XVI, § 61.

## COMMUNITY PROPERTY

Partition between husband and wife, Art. XVI, § 15.

## COMPTROLLER OF PUBLIC ACCOUNTS

Member of Legislative Redistricting Board, Art. III, § 28.

## CONSTABLES

Compensation on salary basis, Art. XVI, § 61. Deputies and assistants, compensation on salary basis, Art. XVI, § 61.

## COUNTIES

Employees, workmen's compensation insurance, power to provide, Art. III, § 60. Workmen's compensation insurance, power to provide, Art. III, § 60.

## COUNTY OFFICERS

Compensation on salary basis, Art. XVI, § 61.

## CRIMINAL DISTRICT COURTS

Judges, retirement and compensation and reassignment to active duty, Art. V, § 1-a.

## DISTRICT COURTS

Judges, retirement and compensation and reassignment to active duty, Art. V, § 1-a.

## FARM TO MARKET ROADS

County ad valorem tax for construction and maintenance, Art. VIII, § 1-a.

## FLOOD CONTROL

County ad valorem tax for maintenance, Art. VIII, § 1-a.

## GOVERNOR

Death, Lieutenant Governor acting as Governor until next election, Art. IV, § 3a.

Disability, Lieutenant Governor acting as Governor, Art. IV, § 3a.

Succession to governorship, Art. IV, § 3a.

## HOMESTEAD

Tax exemption, Art. VIII, § 1-b.

Effective date, Art. VIII, § 1-c.

## HUSBAND AND WIFE

Partition of existing community property, Art. XVI, § 15.

## JUDGES

Appellate Court, retirement and compensation, Art. V, § 1-a.

## LEGISLATIVE REDISTRICTING BOARD

Creation, etc., Art. III, § 28.

## LEGISLATURE

Rural fire prevention districts, power to establish, Art. III, § 48-d.

Workmen's compensation insurance, power to enable counties to provide, Art. III, § 60.

## LIEUTENANT GOVERNOR

Acting as Governor until next election upon death of Governor elect, Art. IV, § 3a.

Member of Legislative Redistricting Board, Art. III, § 28.

## MANDAMUS

Legislative redistricting board compelled by mandamus to perform duties, Art. III, § 28.

## PRECINCTS

Law enforcement officers, compensation on salary basis, Art. XVI, § 61.

## RETIREMENT

Judges, reassignment to active duty, Art. V, § 1-a.

## ROADS

Farm to market roads, counties' power to levy ad valorem tax for construction and maintenance, Art. VIII, § 1-a.

## RURAL FIRE PREVENTION DISTRICTS

Establishment, power of legislature, Art. III, § 48-d.

## SALARIES

Judges, compensation upon retirement, Art. V, § 1-a.

## SHERIFFS

Compensation on salary basis, Art. XVI, § 61. Deputies and assistants, compensation on salary basis, Art. XVI, § 61.

## SPEAKER OF HOUSE OF REPRESENTATIVES

Member of Legislative Redistricting Board, Art. III, § 28.

## SUPREME COURT

Jurisdiction to compel Legislative Redistricting Board to perform duties, Art. III, § 28.

## TAXES AND TAXATION

Ad valorem tax for general revenue purposes prohibited, Art. VIII, § 1-a.

Counties,

Ad valorem tax for county purposes authorized, Art. VIII, § 1-a.

Farm to market roads, ad valorem tax for purpose of, Art. VIII, § 1-a.

Exemptions,

Homesteads, Art. VIII, § 1-b.

Effective date, Art. VIII, § 1-c.

Exemption, Art. VIII, § 1-b.

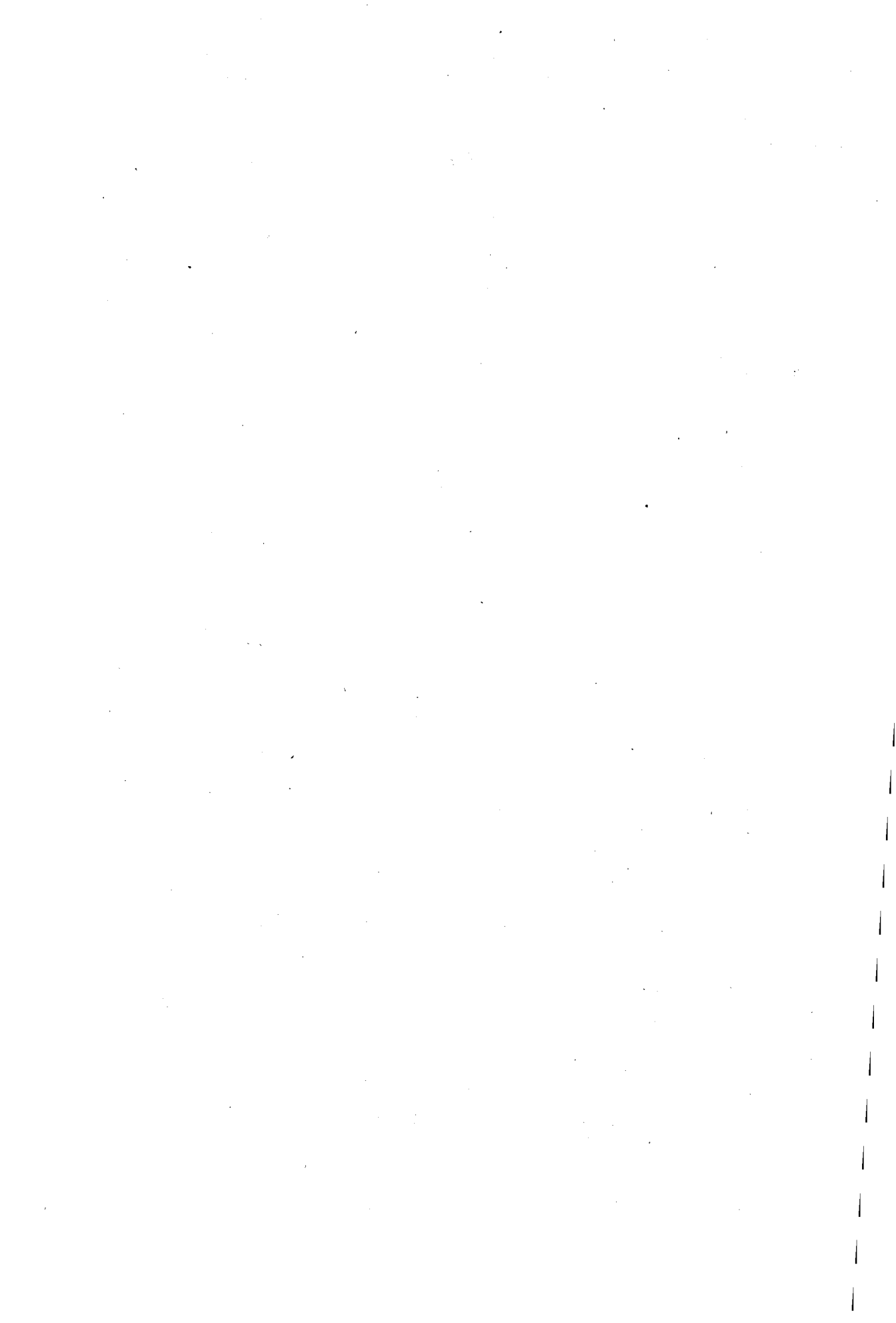
Rural fire prevention districts, tax for support of, Art. III, § 48-d.

## WORKMEN'S COMPENSATION INSURANCE

Counties, power to provide insurance, Art. III, § 60.

T





# VERNON'S REVISED CIVIL STATUTES OF THE STATE OF TEXAS

---

## TITLE 3A—AERONAUTICS

### Art. 46c—1. Definitions

Airport and air terminal corporations,  
see art. 1302g.

West Texas State College and Texas Ag-  
ricultural and Mechanical College, Air-  
port, see art. 2919c.

### Art. 46d—1. Definitions

Leases by commissioners courts, see art.  
2351.

## TITLE 4—AGRICULTURE AND HORTICULTURE

Chap.

	Art.
13. Antifreeze [New] - - - - -	165—6
14. Poultry [New] - - - - -	165—7

## CHAPTER FIVE—COMMERCIAL FERTILIZERS

### Art. 97. Inspection fee

To defray the expenses connected with the inspection and analysis of commercial fertilizers sold, exposed or offered for sale in this State and experiments relative to the agricultural value thereof, all firms, corporations or persons engaged in the manufacture or sale of commercial fertilizers, herein termed the guarantors of commercial fertilizers, shall pay to the State Chemist at his office in College Station, Texas, an inspection fee of Twenty-five cents (25¢) per ton of two thousand (2,000) pounds of commercial fertilizers which have been registered in compliance with the requirements of Article 95 of this Chapter and sold or distributed for sale in this State. Such inspection fee shall be paid by the guarantor of such fertilizer, and no other person shall be required to pay any additional inspection fee. Payment of the inspection fee shall be made on the basis of and shall accompany tonnage reports submitted quarterly to the State Chemist by the guarantor of such fertilizers setting forth the tonnage and kind of each fertilizer sold or distributed for sale in this State. Before any commercial fertilizer may be registered in this State in compliance with the requirements of Article 95 of this Chapter, the guarantor shall file with the State Chemist an agreement to keep such records as are necessary to show accurately

the tonnage and kind of each commercial fertilizer sold or distributed for sale, and shall grant the State Chemist or his authorized representative the right to examine such records to verify the statement of tonnages. The tonnage reports shall be made under oath on forms supplied by the State Chemist and considered by him adequate for providing the necessary tonnage and statistical information. Tonnage reports covering all fertilizer sold and distributed for sale in Texas during the preceding three (3) months and inspection fees for the tonnage so reported shall be due and payable on the first day of December, the first day of March, the first day of June, and the first day of September of each year. If the tonnage report is not filed and the payment of inspection fees is not made within twenty (20) days after the date due, a collection fee amounting to ten per cent (10%) of the amount due shall be assessed against the guarantor, and the amount of fees due shall constitute a debt and become the basis of a judgment against the guarantor. If the tonnage report is not filed and the payment of fees is not made within thirty (30) days after the date due, or if the report of tonnage be false, fifteen (15) days after due written notice and opportunity for hearing have been given, the State Chemist may cancel the registration of commercial fertilizers registered by the delinquent guarantor. Any information as to the amount of fertilizer sold and business practices of any guarantor obtained from tonnage reports or from inspection of records and books shall remain confidential and shall not be revealed by the State Chemist or his employees to the public, persons or other guarantors. Nothing in this Article shall interfere with fertilizers passing through this State in transit; nor shall it apply to the delivery of fertilizer materials in bulk to fertilizer factories for manufacturing purposes only. All fees received by the State Chemist shall be deposited with the Director of the Texas Agricultural Experiment Station and shall be expended under the direction of the Board of Directors of the Agricultural and Mechanical College of Texas for defraying the expenses of inspection and analysis of commercial fertilizers, for the preparation and publication of bulletins and reports required or authorized by Article 98 of this Chapter, for research experiments conducted by qualified personnel of the Texas Agricultural Experiment Station relative to the agricultural value of commercial fertilizers, and for such other related purposes as the Board of Directors of said College may allow or direct. As amended Acts 1949, 51st Leg., p. 342, ch. 170, § 1.

Emergency. Effective May 13, 1949.

Section 2 of the Amendatory Act of 1949 amended Vernon's Ann.P.C. art. 1712. Section 3 read as follows: "All laws and parts of laws in conflict herewith are hereby repealed in so far as they are in conflict; 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."

## CHAPTER SIX—FRUITS AND VEGETABLES

Art.

118d. Texas Citrus Commission [New].

118e. Vegetable plant certification [New].

### Art. 118d. Texas Citrus Commission

#### Texas Citrus Commission created

Section 1. There is hereby created and established an instrumentality of the State of Texas to be known and described as Texas Citrus Commission, to be composed of twenty-seven (27) practical citrus men, all resident citizens of the State of Texas, each of whom has at the time of

his appointment and shall continue to have throughout his term of office, the respective qualifications, as follows:

(1) Grower Members.

Ten (10) members shall be growers, each of whom has been for a period of five (5) years immediately preceding his appointment to office actively engaged in growing citrus fruit in the State of Texas and who during such period has derived a substantial portion of his income therefrom, or has been during said period the directing or managing head of a corporation or partnership which has during said five-year period derived the major portion of its income from the growing of citrus fruit.

Three (3) of said grower members shall be persons who market their citrus fruit or are connected with corporations or are members of partnerships which market the citrus fruit produced by such corporation or partnership, under contract with the largest Texas co-operative citrus association or group of federated co-operative citrus associations.

One (1) of said grower members shall be a person who markets his citrus fruit, or is connected with a corporation or is a member of a partnership which markets the citrus fruit produced by such corporation or partnership, under contract with a Texas co-operative citrus association not connected or affiliated with the largest Texas co-operative citrus association or group of federated co-operative citrus associations.

Six (6) of said grower members shall be persons who sell the Texas citrus fruit produced by them or by the partnerships or corporations with which such members are connected, independently or to a packer or processor (other than a co-operative association) prior to the fruit being packed or processed.

(2) Shipper Members.

Two (2) members of said Texas Citrus Commission shall be officers or full-time employees of the largest Texas co-operative citrus association, or of one of the co-operative citrus associations which is a member of, or affiliated with a group of federated co-operative citrus associations. One (1) member of said Texas Citrus Commission shall be an officer or full-time employee of a Texas co-operative citrus association not connected or affiliated with the largest Texas co-operative citrus association or any of the group of federated co-operative citrus associations. Five (5) members of said Texas Citrus Commission shall be persons engaged in, or who are directing or managing heads of corporations, or members of partnerships, engaged in buying Texas citrus fruits for cash and packing and shipping the same as fresh fruit.

(3) Canner or Processor Members.

Two (2) members of said Texas Citrus Commission shall be officers or full-time employees of the largest Texas co-operative citrus association or of one of the Texas co-operative citrus associations which is a member of a group of federated Texas co-operative citrus associations. One (1) member of said Texas Citrus Commission shall be an officer or full-time employee of a co-operative citrus association not connected or affiliated with the largest Texas co-operative citrus association or any of the group of federated co-operative citrus associations which is engaged in processing or canning citrus fruit or an independent processor of citrus fruit or an officer or full-time employee of a private corporation engaged in processing citrus fruit.

Three (3) members of said Texas Citrus Commission shall be persons engaged in or who are directing or managing heads of corporations or partnerships engaged in buying citrus fruit or parts thereof for cash and processing or canning same before resale.

(4) Members at Large.

Three (3) members of said Texas Citrus Commission shall be persons who are residents of the citrus producing area of Texas and not principally engaged in producing, marketing or processing Texas citrus fruit.

(5) If any member of the Texas Citrus Commission shall during his term of office, cease to be qualified for his particular office in accordance with the requirements of this section, he shall thereupon resign or be subject to removal from office.

**Terms of office; Vacancies**

Sec. 2. The terms of office of the members of such Commission shall be for six (6) years from the date of commencement of their respective terms of office, except as hereinafter provided, and until their respective successors are appointed and qualify. The term of office for each member of the Commission shall commence on June 1st of the year of his appointment and shall end on the 31st day of May six (6) years later if his successor has been appointed and has qualified and if not, shall continue until such successor is appointed and qualifies. The Governor of the State of Texas shall appoint men with the qualifications stated above to be members of said Commission, by and with the advice and consent of the Senate. In appointing the first members of said Commission nine (9) members shall be appointed for terms of six (6) years; nine (9) members shall be appointed for terms of four (4) years and nine (9) members shall be appointed for terms of two (2) years and until their respective successors are appointed and qualify and the Governor shall designate the respective terms of such first appointees when they are appointed. Thereafter, the term of office of each appointee shall be for six (6) years and until their successors are appointed and qualify. Vacancies shall be filled by appointment by a quorum of the remaining members of the Texas Citrus Commission for the balance of the unexpired term of the member whose office is vacated. The Governor in making appointments shall give consideration to recommendations of the Commissioner of Agriculture of Texas as well as of persons, firms and corporations, actively engaged in the various phases of the Texas citrus industry. Before entering upon their duties as members of said Commission, each member shall take the oath of office prescribed by the Constitution of Texas, and same shall be filed with the Secretary of the Commission and become part of the permanent records of the Commission.

**Compensation of members**

Sec. 3. No member of the Commission shall receive any salary or other compensation, directly or indirectly, by virtue of his membership on such Commission except as herein expressly provided.

For transacting business authorized by the Commission outside the State of Texas, or beyond fifty (50) miles from the executive offices of the Commission, each member shall receive reimbursement for such expenses actually incurred and reasonably necessary, as the Commission may allow by standing order previously entered upon the minutes of the Commission before such business is transacted and expenses are incurred.

**Officers; Bylaws; Executive committee**

Sec. 4. The officers of the Texas Citrus Commission shall be a chairman, vice-chairman and secretary. The chairman and vice-chairman must be members of the Commission and the secretary may or may not be a member as the Commission may determine. The Commission may from time to time adopt, alter, change, rescind and amend bylaws governing the time and place of meetings and the conduct of its affairs and

specifying the duties of its officers, agents and employees. It may delegate the power to carry on its business between meetings of the Commission to an executive committee to be composed of not less than seven (7) members of the Commission of whom four (4) shall constitute a quorum but no contract involving the expenditure of more than One Thousand, Five Hundred Dollars (\$1,500) shall be valid unless made at a meeting of the Commission at which a quorum is present, nor shall the executive committee alone promulgate or adopt any order, rule or regulation governing the grades or sizes of citrus fruit which may be packed and placed in containers.

**General powers; Copies of proceedings; Quorum**

Sec. 5. The Texas Citrus Commission shall be a public municipal corporation of the State of Texas and shall have power to contract and be contracted with, to sue and be sued, and shall possess such other powers as may be necessary to enable it to carry out the duties now or hereafter imposed by law upon it. The said Commission shall adopt a corporate seal with which it shall authenticate its proceedings, acts and certificates. Fifteen (15) members of such Commission shall constitute a quorum for transacting the business of the Commission. Copies of the rules, regulations, proceedings, records and acts of the Commission and certificates purporting to relate the facts reflected by such proceedings and acts and the contents of its records, certified to by the chairman, vice-chairman or secretary of such Commission and authenticated by its seal, shall be prima facie evidence of the facts therein recited in all Courts of this State and elsewhere.

**Venue; Enforcement of act; Service of process**

Sec. 6. Exclusive venue of all suits by or against the Texas Citrus Commission shall lie in the Courts of competent jurisdiction in the county where the executive offices thereof may, from time to time, be established. Such Courts are authorized, empowered and directed at the request of the Commission to prevent, restrain, correct or abate any violation of this Act and of any valid order, rule or regulation issued by the Commission, and of any order, ruling or regulation made in connection with the administration or enforcement of this Act, and the Court shall adjudge to the Commission such relief by way of injunction (which may be mandatory) or otherwise as may be proper under all the facts and circumstances of the case, in order to fully effectuate the purposes of this Act and to carry out the orders, rules and regulations of the Commission made pursuant thereto. Service of process upon the Commission shall be made by serving the chairman or secretary. The Attorney General of Texas shall at the request of the Commission represent it in legal matters.

**Reports and audits**

Sec. 7. The Commission shall make an annual report to the Governor of the State of Texas covering the work of the Commission and shall publish the same or extracts therefrom in any paper or papers in the citrus producing area of Texas. It shall also make such special reports on any phase of the work of the Commission as may be called for by the Governor, the Legislature or either House thereof, and shall cause an annual audit of its operations to be made either by the State Auditor or by a certified public accountant at the discretion of the Commission.

**Hearing before Commission; Resort to Courts**

Sec. 8. Any person, firm, or corporation shall have a right to a hearing before the Texas Citrus Commission or the member, members or agent designated to hold hearings, on any grievance occasioned by the promulgation of any order, rule or regulation by the Commission. Such hearing shall be held in conformity with rules and regulations to be prescribed from time to time by the Commission. No hearing shall suspend the operation of any order, rule or regulation unless the Commission shall so order. Any person, firm or corporation aggrieved by such order, rule or regulation after such hearing, shall have the right to apply to any Court of competent jurisdiction in the county where the executive offices of the Commission may, from time to time be established, to obtain redress.

**Specific powers of the Texas Citrus Commission**

Sec. 9. The Texas Citrus Commission in addition to those elsewhere enumerated, shall have the following powers:

(1) To establish and maintain executive offices at such place within the citrus producing area of the State of Texas as it may from time to time select. The location of such executive offices may from time to time be changed by the Commission.

(2) To employ and at its pleasure discharge experts, agents and such other employees, persons, firms and corporations as it may deem necessary and to fix their respective duties and compensation. Provided however, that all compensation proposed to be expended under said paragraph (2) shall be first approved by the Legislative Audit Committee.

(3) To adopt and from time to time to alter, rescind, modify or amend all proper and necessary bylaws, rules, regulations and orders for the exercise of its powers and the performance of its duties under this Act, and to define more precisely the terms and words used in this Act and the applicability thereof to specific facts and circumstances and to prevent by orders, rules and regulations the evasion of the taxes as well as the other acts, rules and regulations of the Commission, which such rules, regulations and orders as so adopted, rescinded, modified or amended shall have the force and effect of law when not inconsistent with existing laws.

(4) To act as the general supervisory authority over the administration and enforcement of this Act and the provisions thereof and to exercise such other powers and to perform such other duties as may be now or hereafter imposed upon it by law.

(5) To purchase all necessary office equipment, furniture and supplies and to make such contracts and incur such expenses as may be necessary or desirable to properly carry out its duties.

(6) To conduct directly or through such instrumentalities or agencies as it may select, publicity and advertising programs and sales campaigns, designed to increase the sale and consumption of Texas citrus fruit and by-products in an amount not to exceed one-half of the revenue of the Commission in any one year; to carry on research either directly or through such instrumentalities or agencies as it may select, for the purposes of increasing knowledge with respect to Texas citrus fruits and by-products and protecting Texas citrus from pests and diseases and of finding new uses for Texas citrus fruit and by-products and of improving the quality and yield of such fruit and by-products. No advertising or sales promotion campaign shall be directed towards promotion of the brands or trade names belonging to any particular person, firm or corporation, except as hereinafter provided.

(7) To adopt, change, modify, register and own brands, labels, trademarks, trade names and copyrights for use in connection with Texas

citrus fruits and by-products and to adopt, alter, amend, and rescind rules and regulations governing the quality, kind and grade of products using same and conditions of such use and to prohibit the use of such brands, labels, trade-marks, trade names and copyrights in connection with products which do not comply with such rules and regulations. All such brands, labels, trade-marks, trade names and copyrights shall be open to use by all producers of Texas citrus fruit and by-products who comply with the rules and regulations promulgated by the Commission with respect thereto.

(8) To borrow money for the purpose of carrying on the functions for which the Commission was created, but no loan shall be for a greater amount than the reasonably anticipated revenues of the Commission for the current crop year in which such loan is made.

**Grade and size regulations; Investigation and hearings**

Sec. 10. The Texas Citrus Commission in addition to those powers elsewhere granted shall also have power to investigate or cause to be investigated, and to otherwise inform itself from time to time as to economic and market conditions affecting citrus fruit, including the present and prospective supply, demand and price for the various varieties, grades and sizes and other pertinent factors affecting the marketing thereof. The Commission is authorized and empowered to hold hearings and take testimony, at such times and places as the Commission may from time to time designate, or to delegate the holding of such hearings to such member or members or agent as it may authorize. Such member or members or agent so designated to hold hearings and the chairman, vice-chairman and secretary of the Commission are each authorized and empowered to subpoena witnesses, books, papers and documents and to administer oaths to the same extent as the district Courts of this State. The Commission may from time to time, issue rules and regulations, establishing a minimum grade or a minimum size, or both such minimum grade and minimum size, for citrus fruit and the several varieties and kinds thereof, which may be packed or placed in containers during any specified period or periods, for transportation and sale as fresh fruit.

**Limitations on grade and size regulations**

Sec. 11. The following standards and limitations shall govern the Texas Citrus Commission in promulgating rules and regulations with respect to grades and sizes of the various varieties of citrus fruit which may be packed or placed in containers for transportation and sale as fresh fruit to wit:

(1) The Commission shall use grade and size standards and specifications which have been or may be officially adopted from time to time in the State of Texas pursuant to law.

(2) No order, rule or regulation with respect to grades or sizes shall become effective sooner than four (4) days after its adoption or promulgation by the Commission and no such order, rule or regulation shall be issued as to citrus fruit or any variety thereof affected by any marketing agreement adopted under the Texas Citrus Marketing Agreement Act<sup>1</sup> or the Federal Agricultural Adjustment Act as amended.<sup>2</sup>

(3) No order, rule or regulation shall extend for a longer period of time than two (2) weeks after its effective date, unless the Commission shall on or before the expiration of such effective period, meet and adopt another order, rule or regulation extending the effective period of such previous order for another period of not to exceed two (2) weeks.

(4) No restrictions shall be placed upon the packing or placing in containers of citrus fruit grading equal to or better than "Texas Select"



grade, as now or hereafter officially adopted in Texas, provided the sizes of such fruit grading "Texas Select" or better conform to the requirements of the Commission in effect at the time such citrus fruit is packed or placed in containers.

(5) The powers of the Commission shall be exercised in such a manner as to stabilize the market and insure as near as may be, orderly marketing of fresh citrus fruit at prices which will represent a fair return to the producers thereof. If it should be determined that there is a conflict of this Section and the anti-trust laws of Texas, then in such event the anti-trust laws will prevail.

(6) Full publicity and information as to all orders, rules and regulations shall be promptly given by the Commission to all interested parties.

(7) No restrictions shall be placed upon citrus fruit packed or placed in containers for transportation to the same ultimate consumer in units of five (5) containers or less; or for consumption by charitable institutions or by relief agencies; or destined entirely for conversion into by-products.

The Commission may by rule and regulation prescribe safeguards to prevent citrus fruit packed or placed in containers from entering commercial fresh fruit channels of trade contrary to the provisions of the rules and regulations of the Commission. The term by-products as used herein includes all processed or manufactured citrus fruit or products thereof including canned and bottled fruits and juices and feed and other products made from parts of citrus fruit.

<sup>1</sup> Article 5764a.

<sup>2</sup> 7 U.S.C.A. § 601 et seq.

#### **Compliance with orders, rules and regulations**

Sec. 12. During the effective time of any regulation or order of the Commission relative to grades and sizes, no person, firm or corporation shall pack or place in containers for transportation and sale as fresh fruit, any citrus fruit which does not meet the requirements of the applicable orders, rules and regulations of the Commission with respect to grades and sizes.

#### **Inspection certificates as to grades and sizes**

Sec. 13. The Texas Citrus Commission shall have the power from time to time, to adopt, alter, modify, amend and rescind rules and regulations for the enforcement of its orders, rules and regulations with respect to grades and sizes, including but not limited to, requirements that all lots or loads of citrus fruit and the several varieties thereof packed or placed in containers for transportation or sale as fresh fruit shall be accompanied by inspection certificates issued under the authority of the Commission certifying that such citrus fruit meets the applicable requirements as to grades and sizes and forbidding transportation companies, common and contract carriers and carriers by automobile, truck, trailer or any other means, to transport citrus fruit which does not meet such applicable rules and regulations of the Commission.

#### **Tax on packing and processing citrus fruit**

Sec. 14. There is hereby levied and assessed and there shall be collected, at the times and in the manner and from the persons, firms, associations and corporations herein provided, a tax in such amount not to exceed Three Cents (3¢) per standard packed box or bag of one and three-fifths (1 $\frac{3}{5}$ ) bushels or equivalent, as the Texas Citrus Com-

mission may annually fix and certify to the Commissioner of Agriculture of the State of Texas on or prior to September 1st of each year.

With the exceptions herein provided, said tax at said rate is hereby levied, and assessed and shall be collected as herein provided, upon all citrus fruit grown in the State of Texas and packed or placed in containers and marketed, or processed and sold between September 1st of each year and August 31st of the following year. If any citrus fruit shall be placed in containers or packed or processed in the State of Texas between September 1st of one year and August 31st of the following year but not sold until after the next September 1st, upon such sale it shall be taxed at the rate fixed by the Commission on or before the September 1st immediately preceding such sale.

For the purpose of computing such tax, twenty-four (24) units of No. 2 cans of processed citrus fruit shall be equivalent to a standard packed box or bag of one and three-fifths ( $1\frac{3}{5}$ ) bushels of fresh fruit and shall be taxed in the same amount as such standard packed box; twelve (12) units of No. 3 cans of processed citrus fruit shall be taxed at a rate one and twenty-six one hundredths (1.26) times the amount of tax for a standard packed box; six (6) units of No. 10 cans of processed citrus fruit shall be taxed in the amount one and thirty-three one hundredths (1.33) times the tax for a standard packed box; seventy-two (72) units of six (6) ounce cans of processed citrus fruit shall be equivalent to a standard packed box of fresh fruit and shall be taxed in the same amount; each one and three-fifths ( $1\frac{3}{5}$ ) bushel Bruce or wire-bound type box of fresh fruit shall be equivalent to a standard packed box of fresh fruit and shall be taxed in the same amount; each box, basket or bag containing approximately four-fifths ( $\frac{4}{5}$ ) bushel of fresh fruit shall be taxed in an amount equal to one-half ( $\frac{1}{2}$ ) the tax for a standard packed box; each box, basket or bag containing approximately two-fifths ( $\frac{2}{5}$ ) bushel of fresh fruit shall be taxed in an amount equal to one-fourth ( $\frac{1}{4}$ ) the tax for a standard packed box; each basket or bag containing approximately one (1) bushel of fresh fruit shall be taxed in an amount equal to sixty-two and one-half per cent ( $62\frac{1}{2}\%$ ) of the tax on a standard packed box; each box, basket or bag containing one-half ( $\frac{1}{2}$ ) bushel of fresh fruit shall be taxed in an amount equal to thirty-one and twenty-five one hundredths per cent ( $31.25\%$ ) of the tax on a standard packed box; eight (8) bags containing approximately one-fifth ( $\frac{1}{5}$ ) bushel each of fresh fruit shall be equivalent to a standard packed box and shall be taxed in the same amount; ten (10) eight (8) pound bags of fresh fruit shall be equivalent to a standard packed box of fresh fruit and shall be taxed in the same amount; sixteen (16) five (5) pound bags of fresh fruit shall be equivalent to a standard packed box and shall be taxed in the same amount; four and one-half ( $4\frac{1}{2}$ ) gallons of single strength citrus fruit juice or other processed citrus fruit shall be equivalent to a standard packed box of fresh fruit and shall be taxed in the same amount; eighty (80) pounds of fresh fruit in bulk shall be the equivalent of a standard packed box and shall be taxed in the same amount as such standard packed box.

For the purpose of computing such tax on other containers of fresh and processed Texas citrus fruit, and enforcing the collection of the taxes herein levied, the Texas Citrus Commission is authorized, empowered and directed to adopt rules and regulations to prevent evasion and ensure collection and defining what is the equivalent of a standard packed box of fresh fruit, and the proportion of the tax as levied per standard packed box which shall be paid on such other forms and containers of fresh and processed Texas citrus fruit.

It is provided however that the tax levied from year to year pursuant to the terms and provisions hereof shall not be due and payable by any natural person as to Texas citrus fruit grown on land owned by such person and packed and sold by such person as fresh fruit or as to such fruit so grown on such land and processed and sold by such person. Each such natural person claiming an exemption under the provisions hereof, shall, before becoming entitled thereto, file an application for such exemption and receive an exemption certificate from Texas Citrus Commission at the time and in the manner hereinafter provided.

**Time and place of tax payment**

Sec. 15. The taxes authorized by the preceding Section of this Act shall be due and payable (with the exceptions therein set out) by the persons, firms or corporations packing or placing same in containers and marketing such fresh citrus fruit or processing and selling such processed citrus fruit and citrus fruit by-products, to the Texas Citrus Commission at its executive offices, on the 15th day of the calendar month following the packing or placing in containers and marketing of the fresh citrus fruit or the processing and sale of the processed citrus fruit and by-products, to which such taxes are applicable. Same shall bear interest at the rate of ten per centum (10%) per annum from and after the due date thereof until paid, and shall be personal obligations and claims against each person, firm and corporation who packs or places in containers and markets or processes and sells or purchases all or any part of such fresh citrus fruit after it is packed for market or such processed fruit and by-products after same are processed. All persons, firms and corporations who shall sell or purchase any fresh or processed citrus fruit and by-products upon which such tax is or may become due, shall keep such records and accounts and make such periodic reports of dealings in fresh and processed citrus fruit and by-products as the Texas Citrus Commission may from time to time prescribe.

**Bond to insure payment of tax exemption certificates**

Sec. 16. Each person, firm and corporation (including co-operatives organized under the co-operative marketing laws of Texas) who is or may be engaged in buying or selling or processing or packing or placing in containers or otherwise dealing in any fresh citrus fruit or citrus fruit by-products upon which any tax authorized by this Act is or may become due, shall before engaging in any such activity, give bond to the Texas Citrus Commission in the sum of at least Two Thousand Dollars (\$2,000) conditioned upon the prompt payment of all taxes and interest due or to become due under the terms and provisions hereof, at the time and place and in the manner prescribed by law and by rules and regulations which may be from time to time promulgated by said Commission. The terms and provisions and the amount of such bond to be given by each such person, firm, corporation and co-operative and the surety or sureties thereon, shall be such as are from time to time prescribed by rules and regulations of the Commission and the said bond must be approved by the Commission or some agent thereunto authorized, before becoming effective. If any such bond should expire according to its terms or be cancelled or if the surety or sureties thereon, in the judgement of the Commission or its agent in charge of such matters, should become insolvent, or if default should at any time be made in performance of the terms and provisions of such bond and payment of the taxes and interest due by the principal obligor on such bond, then it shall thereafter be unlawful for the principal obligor on any such bond to pack or place in containers or buy, sell, or handle Texas citrus fruit or citrus fruit by-products

until all taxes and interest in arrears have been paid to the Texas Citrus Commission and until a new bond satisfactory to the Commission, has been substituted for such former bond.

Each natural person who is engaging solely and only in activities which are not subject to the taxes levied under the provisions of this Act shall, under such rules and regulations and safeguards as the Commission may promulgate from time to time, receive from the Commission or its agent thereunto authorized without charge, a certificate of exemption, certifying that the activities of such natural person are not subject to taxes under the provisions of this Act. It shall be unlawful for any such natural person to engage in such activities not subject to the taxes levied under the provisions hereof, without first receiving such certificate of exemption, certifying that the activities of such natural person are not subject to tax under the provisions of this Act.

**Commissioner of Agriculture to assist enforcement**

Sec. 17. The Commissioner of Agriculture of the State of Texas, and his assistants, employees and agents are hereby authorized, empowered and directed at the request of the Texas Citrus Commission and without additional compensation to collect the taxes imposed by this Act and to remit same to said Commission as herein provided and to otherwise assist the Commission in the enforcement of this Act and rules and regulations promulgated hereunder. They shall make from time to time such reports of their collections and remittances and other activities in the enforcement hereof as may be required by said Texas Citrus Commission. Said Texas Citrus Commission may also employ additional agents and representatives for the collection of said taxes, and to assist in the enforcement hereof.

The Texas Citrus Commission may require any or all persons who handle money or are responsible for collecting the taxes herein levied to give bond for the faithful and honest performance of their duties in such form and amount as may be prescribed by the Commission and the premiums on such bonds may be paid by the person giving same or from funds of the Texas Citrus Commission, as it may prescribe.

**Deposit of proceeds of citrus taxes**

Sec. 18. There is hereby created in the Treasury of the State of Texas three special funds which shall be continuing funds, to be known as follows:

- (1). Texas Citrus Commission Fund.
- (2). Agricultural and Mechanical College of Texas-Weslaco Experiment Station No. 15 Citrus Fund.
- (3). Texas College of Arts and Industries Citrus Fund.

All moneys collected from the taxes levied from time to time pursuant to the provisions of this Act shall be turned over to the Texas Citrus Commission, its officers and agents, and by said Commission forwarded to the Comptroller to be deposited by him with the State Treasurer of the State of Texas, three-fourths ( $\frac{3}{4}$ ) thereof in said Texas Citrus Commission Fund, one-eighth ( $\frac{1}{8}$ ) thereof in said Agricultural and Mechanical College of Texas-Weslaco Experiment Station No. 15 Citrus Fund and one-eighth ( $\frac{1}{8}$ ) thereof in said Texas College of Arts and Industries Citrus Fund and the proceeds of such taxes in said funds shall be appropriated by the Legislature of the State of Texas for the purposes herein named and for no other purpose.

The entire amount of said Texas Citrus Commission Fund for the biennium ending August 31, 1951, is hereby appropriated to said Texas Citrus Commission, to be used by it for the purposes specified in this Act includ-

ing the enforcement of this Act and cost of collecting said taxes. The entire amount of said Agricultural and Mechanical College of Texas-Weslaco Experiment Station No. 15 Citrus Fund and of said Texas College of Arts and Industries Citrus Fund for the biennium ending August 31, 1951, are hereby appropriated to the Agricultural and Mechanical College of Texas, Texas Agricultural Experiment Station System-Weslaco Experiment Station No. 15 and Texas College of Arts and Industries, each respectively to be used by said respective institutions in education and research for the purpose of increasing knowledge with respect to Texas citrus fruits and by-products, and protecting Texas citrus fruits from pests and diseases and of finding new uses for Texas citrus fruits and by-products and of improving the quality and yield of such fruit and by-products.

Warrants shall be drawn by the Comptroller of Public Accounts of the State of Texas, against said respective funds as provided by law.

**Severability of provisions hereof**

Sec. 19. If any section, clause, sentence or provision of this Act or rules and regulations issued pursuant hereto as applied to a particular individual and set of circumstances, shall be held for any reason, to be invalid, such holding shall not affect in anywise the validity of the remaining provisions of this Act, or rules and regulations issued hereunder or the application of this Act and such rules and regulations to other and different individuals and circumstances not so held invalid, and all those portions of such Act or such rules and regulations not held invalid shall remain in full force and effect.

**Legislative purpose**

Sec. 20. This Act is passed for the purpose of preventing economic waste of food and loss of property and natural resources of this State and to encourage and foster the development of a major industry, the Texas citrus industry by fostering research as to new uses; by preventing destruction thereof by pests and diseases and by improving the quality of and stimulating demand for, such Texas citrus fruit and by-products produced therefrom. Lack of such fostering care for such industry has in the past and will in the future (unless prevented) result in unnecessary and avoidable waste of an important resource of this State. Such loss and waste will imperil the ability of producers of Texas citrus fruit to contribute in appropriate amounts to the support of ordinary governmental and educational functions, and increase the tax burdens of other citizens for the same purposes. Hence this Act is passed to further the public welfare and general prosperity of the State of Texas.

**State not financially responsible**

Sec. 20-a. Provided that the State of Texas shall not assume any financial responsibility as to obligations created or that may be created under the provisions of this Act, except as to enforcement purposes. Acts 1949, 51st Leg., p. 150, ch. 93.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 118e. Vegetable plant certification**

**Establishment of procedure; purpose; duties of commissioner; stamps or tags**

Section 1. There is hereby established in this State the following procedure for vegetable plant certification:

The purpose of the vegetable plant certification law is to provide for the purchaser of vegetable plants the benefit of honest and reliable opinion of the freedom from such disease and fungus infection as can be determined by field inspection prior to preparing the plants for shipment—to insure in so far as possible, proper handling and packaging the plants certified.

The Commissioner of Agriculture is charged with the duties of prescribing such rules and regulations as are necessary to the enforcement of the law.<sup>1</sup> The appointment of qualified inspectors, collection of fees, issuance of tags and the actual enforcement of the law.

The firm or individual holding such license and meeting the requirement of inspection are issued such certification stamps or tags as may be deemed necessary, such stamps or tags to be affixed to containers carrying the certified plants.

<sup>1</sup> The period should probably be omitted. This is not the end of the sentence.

#### Tomato plants

Sec. 2. The certification of tomato plants shall be based on the fact that the plants are apparently free from the following plant diseases and pests as determined from field inspection prior to the lifting of the plants for sale or shipment, to wit:

DISEASES	SCIENTIFIC NAME OF ORGAN- ISM
Nematode root knot	Heterodera marioni
Early blight	Alternaria solani
Collar rot	Alternaria solani
Grey leaf spot	Stemphyllium solani
Late blight	Phytophthora infestans
Fusarium wilt	Fusarium lycopersici
Verticillium wilt	Verticillium albo-atrum
Bacterial wilt	Bacterium solanacearum
Bacterial canker	Coryneil bacterium michiganense
Bacterial spot	Xanthomonas vesicatoria
Southern blight	Sclerotium rolfsii
Mosaic	Virus

INSECTS *	SCIENTIFIC NAME OF ORGAN- ISM
Garden fleahopper	Halticus citri
Thrips	Thrips tabaci and others
Flea beetle	Phyllotreta spp.
Serpentine leaf miner	Liriomyza pusilla

All other diseases and insects that might be found in the future that are at the present unknown to scientists.

\* (Free from damaging infestation)

#### Cabbage and other cruciferous plants basis of certification

Sec. 3. The certification of cabbage, cauliflower, broccoli, collards, or other cruciferous plants shall be based on the fact that the plants are apparently free from the following plant diseases and pests as deter-

mined from field inspection prior to the lifting of the plants for sale or shipment, to wit:

DISEASES	SCIENTIFIC NAME OF ORGAN- ISM
Nematode root knot	Heterodera marioni
Black rot	Bacterium campestre
Yellows	Fusarium conglutinans
Black-leg	Phoma lingam
INSECTS *	
Aphid	Brevicoryne brassicae and Rhopalosiphum pseudobrassicae

\* (Free from damaging infestation)

#### Pepper plants

Sec. 4. The certification of pepper plants shall be based on the fact that the plants are apparently free from the following plant diseases and pests as determined from field inspection prior to the lifting of the plants for sale or shipment, to wit:

DISEASES	SCIENTIFIC NAME OF ORGAN- ISM
Nematode root knot	Heterodera marioni
Southern blight	Sclerotium rolfsii
Bacterial spot	Xanthomonas vesicatoria
Bacterial wilt	Bacterium solanacearum
Verticillium wilt	Verticillium albo-atrum
Mosaic	Virus
INSECTS	
None	

#### Onion plants

Sec. 5. The certification of onion plants shall be based on the fact that the plants are apparently free from the following plant diseases and pests as determined from field inspection prior to the lifting of the plants for sale or shipment, to wit:

DISEASES	SCIENTIFIC NAME OF ORGAN- ISM
Pink root	Phoma terrestris
INSECTS *	
Thrips	Thrips tabaci

\* (Free from damaging infestation)

#### Eggplants

Sec. 6. The certification of eggplants shall be based on the fact that the plants are apparently free from the following plant diseases and

pests as determined from field inspection prior to the lifting of the plants for sale or shipment, to wit:

DISEASES	SCIENTIFIC NAME OF ORGAN- ISM
Nematode root knot	Heterodera marioni
Southern blight	Sclerotium rolfsii
Leaf spot and fruit rot	Phomopsis vexans
Verticillium wilt	Verticillium albo-atrum
Bacterial wilt	Bacterium solanacearum
Yellows	Virus

#### INSECTS

None

#### Sweet potato plants

Sec. 7. The certification of sweet potato plants shall be based on the fact that the plants are apparently free from the following plant diseases and pests as determined from field inspection and such prior inspection regarding seed potatoes in field, treatment, bedding inspections and such other bedding inspections as are necessary to provide clean slips for sale or shipment, to wit:

DISEASES	SCIENTIFIC NAME OF ORGAN- ISM
Stem rot or wilt	Fusarium batatis
Black rot	Sphaeronema fimbriatum
Pox	Cystospora batata
Nematode root knot	Heterodera marioni
Internal cork	Virus

#### INSECTS

Sweet potato weevil

Cylas formicarius

#### Field inspection; cleaning or destruction; tags; count

Sec. 8. At the time of field inspection if any such disease or pests are found, the infestation or infection shall be delimited and shall be cleaned by use of disinfectants or if unable to clean such plants, that part or parts of the field found infected or infested may be destroyed prior to lifting for sale or shipment and certification be allowed to the remaining clean part or parts of the field, provided that such materials, labor and supervision be furnished by the grower of the plants involved. There shall be a certified tag firmly affixed to each container of plants subject to certification. Bundling and package counts shall be within a tolerance of five per cent (5%) and such bundle or package count shall be plainly stamped on the container in clear, easily read, lettering.

#### Shipments into state; revocation of certification; liability of carriers

Sec. 9. Any and all certified plants shipped into the State of Texas shall have affixed to the package a Texas Certified Stamp or Tag, such stamps or tags to be sold to the shipper and affixed to the package at the point of origin of the shipment; provided, however, the Commissioner of Agriculture of the State of Texas may be authorized to enter into such fee reciprocal agreements with other States having similar Vegetable Plant Certification programs as would permit entry of Certified Vegetable Plants from such other States when stamped by State of origin certified stamps or tags.



The Commissioner may revoke any certificate issued to any plant grower when he finds that false representations have been made by the party to whom the certification was issued, or upon refusal of such party to comply with the law.

No transportation company or common carrier shall be liable for damages to the consignee or consignor for refusing to receive for transportation or deliver such certified plants as are not stamped or tagged with the State Certification stamp or tag. The term State Certified Plants shall be the official designation of plants certified.

#### Inspection fees

Sec. 10. Inspection fees shall be as follows for tomato, cabbage, broccoli, collards, cauliflower, pepper and onions:

At the time of applying for the certification a minimum fee of Five Dollars (\$5) shall be paid, and for each acre over five (5) acres the fee shall be not less than Twenty-five Cents (25¢) nor more than One Dollar (\$1); this fee to be paid at the time of application. As amended Acts 1950, 51st Leg., 1st C.S., p. 119, ch. 48, § 1.

Emergency. Effective March 17, 1950.

#### Sweet Potatoes

Sec. 11. Application for certification of sweet potato plants shall be made prior to harvesting time the preceding season. The fee to be paid at the time the application is made for this inspection shall be a minimum of Five Dollars (\$5) and for acreage of more than five (5) acres the added fee of not less than twenty-five cents (25¢) per acre nor more than One Dollar (\$1) per acre shall be paid. All plants lifted or shipped shall be packaged in bundles of one hundred (100) plants and a label or tag shall be affixed to each bundle. The price of labels or tags shall not be less than one cent (1¢) per label nor more than three cents (3¢) per label.

All such fees as are collected under this Act shall be deposited in the State Treasury in a special fund under the title of the Texas Vegetable Certification fund. The purpose of the fees being to pay for the enforcement of the law and to provide inspections called for; it further being the purpose to make the law self-supporting.

Out of the fees collected under this Act, the Chief of the Markets and Warehouse Division of the Department of Agriculture shall be paid in addition to the amount of his salary in the general appropriation bill the sum of Four Hundred and Eighty Dollars (\$480) per annum; which amount is hereby appropriated for said purpose.

#### Penal Clause

Sec. 12. Any person who shall wilfully or negligently violate any of the terms of this Act, or who shall make false representation of the plants by use of the certified tag or stamp shall be fined upon conviction not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100) and shall be removed from the certified grower list for a period of twelve (12) months. Acts 1949, 51st Leg., p. 1127, ch. 581.

Effective 90 days after July 6, 1949, date of adjournment.

#### Title of Act:

An Act providing for a vegetable plant certification procedure in the State of Texas; establishing certain standards of inspection and certification; providing for

inspection fee; providing additional compensation be paid to the Chief of the Markets and Warehouse Division of the Department of Agriculture out of the fees collected under this Act; providing a penal clause; and declaring an emergency. Acts 1949, 51st Leg., p. 1127, ch. 581.

## CHAPTER SEVEN A—PLANT DISEASES AND PESTS

Art.

135b—2. Hormone type herbicides [New].

### Art. 135b—2. Hormone type herbicides

#### Definitions.

Section 1. The following words and phrases as used in this law shall, unless a different meaning is plainly required by the context, have the following meanings respectively:

(a) "Hormone Type Herbicides." By the term hormone type herbicides is meant all forms of 2, 4-D and its derivatives that regulate, stimulate, retard, change, stop or alter the form of normal growth of living plants;

(b) "2, 4-D." By the term 2, 4-D is meant a form of hormone type herbicide used commercially;

(c) "Hand Manipulated Distributing Equipment." By the term hand manipulated distributing equipment is meant equipment designed for distributing 2, 4-D or other hormone type herbicides, which is carried and operated solely by man power and is capable of being carried and used by one (1) man, and is limited to single discharge sprayers or dusters with a maximum tank or container capacity of seven hundred (700) cubic inches.

(d) "Person." By the term person is meant any natural person, firm or private corporation or association of persons.

#### Sale, etc., only in compliance with law and regulations

Sec. 2. No person shall sell, offer, or expose for sale, exchange, barter or give away, in this State, any 2, 4-D or any other hormone type herbicides except in compliance with the provisions of this Act and within rules and regulations promulgated by the Commissioner of Agriculture of the State of Texas under authority of this Act.

#### Use only in compliance with law and regulations

Sec. 3. No person shall use upon or apply to any land in this State any hormone type herbicides except in accordance with the provisions of this Act and with the rules and regulations promulgated by the Commissioner of Agriculture of the State of Texas governing such use under the authority vested in him by this Act, except those persons expressly exempt from the provisions hereof.

#### License to sell or use; bond; license of equipment

Sec. 4. All persons who sell, offer or expose for sale, exchange, barter or give away, and all persons who use, any 2, 4-D or any other hormone type herbicides for the purpose of applying same on any lands in this State, shall first obtain a license from the Commissioner of Agriculture, and pay the license fee herein provided for unless expressly exempted therefrom by the provisions hereof. It is further provided that all persons who own, operate or control any type of equipment for the purpose of applying 2, 4-D, or other hormone type herbicides, except those specially exempt from the provisions of this Act, shall post a bond with the Commissioner of Agriculture in the amount of Two Thousand Dollars (\$2,000) for the first piece of licensed equipment and One Thousand Dollars (\$1,000) for each additional separate unit of distributing equipment operated under a license, as herein provided, in such form as may be

prescribed by the Commissioner of Agriculture for the benefit of the State of Texas or any person or persons who may suffer damage as a result of the wrongful use of such chemicals by such person or persons. No bond shall be required of persons operating such equipment as employees of any person, firm or corporation who has posted such bond for the use of the particular piece of equipment such employee operates. All of such bonds shall be approved by the County Judge of the County in which the principal lives or by the Commissioner of Agriculture in the event the principal is a non-resident of the State. All equipment other than hand manipulated distributing equipment used in the application of 2, 4-D or any other hormone type herbicides on any lands in this State shall be licensed by the Commissioner of Agriculture, and the owner or owners thereof shall pay the license fee herein provided for. All licenses issued by the Commissioner of Agriculture under the provisions of this Act, both for dealers and users and for equipment shall be on such form as may be prescribed by the Commissioner of Agriculture and shall be issued for a period of one (1) year from the date of issuance and may be revoked or suspended for such period of time as the Commissioner of Agriculture may designate for violation of this Act or the rules and regulations to be promulgated by the Commissioner of Agriculture. Any one whose license is suspended or revoked by the Commissioner of Agriculture shall be entitled to a hearing before the Commissioner upon written application within ten (10) days after he receives notice of such revocation or suspension. All licenses issued under the provisions of this Act may be renewed at the end of each year upon written application to the Commissioner of Agriculture and upon the payment of the license fees herein provided for; provided that before the Commissioner shall issue any renewal of license on any equipment, same shall be inspected and approved by him or under his direction, and if said equipment does not comply with this Act and all of the rules and regulations promulgated by the Commissioner, such license shall not be renewed until said equipment is brought within the provisions of this Act and such rules and regulations. All persons and their agents, servants and employees, who use ground distributing equipment solely upon lands owned or controlled by them and not for hire, are exempt from procuring a license and bond for such operations, but they are not exempt from procuring licenses for the ground distributing equipment so used.

#### Records of sales and use

Sec. 5. Any person who sells, exchanges, barter or gives away any 2, 4-D, or any other hormone type herbicides, in this State shall keep an accurate record of such sales, showing the name or names of the purchaser, donee or recipient thereof, the date of each sale or delivery, and the amount of such chemical so transferred. Any person applying 2, 4-D, or any other hormone type herbicides, on lands or property under his control by ownership or otherwise, and all persons applying same on any land or property in this State, for hire or otherwise, shall keep a record of each application, showing the name of the person or persons in control of the lands, by ownership or otherwise, on which same are applied, at the time such application is made, the location of such lands, the date and time of day same are applied to such lands, the wind velocity and direction at the time of application recorded from instruments designated by the Commissioner of Agriculture, the quantity, concentration and chemical form of such material applied per acre, the total acreage receiving such application, and the type of crop upon which same was applied. Such records shall be verified under oath by the person using said chemical and same shall be filed with the Commissioner of Agriculture within

fifteen (15) days after such chemicals have been used as above described, and duplicate copies of such records shall be kept by the user for a period of two (2) years after same are made in accordance herewith, and same shall be subject to inspection at any time by the Commissioner of Agriculture, or his agents, or such other public officials as may be designated by law or by the Commissioner of Agriculture, and such user shall at all times keep such records available for such purposes during the period above mentioned.

#### Exemptions from application of law

Sec. 5a. The provisions of this Act shall not apply to the application of hormone type herbicides with hand manipulated distributing equipment as herein defined, and the person operating such equipment. All State and Federal Agricultural Experiment Stations, State Department of Agriculture, and the State University are hereby exempt from the regulatory measures prescribed by this Law and the Commissioner of Agriculture may exempt (for experimental purposes) on receipt of written application, such organizations, institutions, person or persons as he judges duly qualified and entitled to conduct research work with hormone type herbicides. It is further provided that the provisions of this Act shall not apply to the bona fide sale or use of 2, 4-D or other hormone type herbicides on and for lawns and home gardens in containers of a capacity not larger than one (1) quart liquid measure or two (2) pounds dry measure.

#### Exemptions of areas by Commissioner of Agriculture

Sec. 5b. The Commissioner of Agriculture, upon a finding of fact by him that any area in this State has no crop or vegetation of value that is susceptible to damage, shall define this area and exempt from the provisions of this Act any person or persons using or applying 2, 4-D, or other hormone type herbicides in such defined areas and for such length of time as such use of same may be deemed safe by the Commissioner of Agriculture.

#### Exemption of specified areas; order of Commissioners Court putting act into effect

Sec. 5c. This Act shall not be effective at this time in any county in this State north and northwest of the southernmost boundaries of Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, and Eastland Counties, and the easternmost boundary line of a portion of Eastland County, and the counties of Stephens and Young; and the southernmost boundary and the easternmost boundary of Clay County; it being the intention of the Legislature that all of the counties named shall be exempted from the provisions of this Act, as herein provided, and all counties of Texas north and west of said named counties shall also be exempted from the provisions of this Act; because it is found to be a fact that there is now no crop or vegetation of value susceptible to damage in this area; provided, however, when any crop or vegetation of value that is susceptible to damage exists in any county in this area, which fact shall be determined by the Commissioners Court of the affected county, evidenced by an appropriate order entered in the minutes of the court, this Act shall be in full force and effect in that county immediately upon the entrance of said order. Before any such order shall be entered by a Commissioners Court, the court shall first give notice in at least one (1) newspaper in said county ten (10) days prior to a hearing on this matter. Any interested person may appeal to the district court to test the reasonableness of the fact finding of the Com-

missioners Court within twenty (20) days from entrance of the order, in which case the rules and procedure governing appeals from orders of the Railroad Commission of Texas shall be followed, the "substantial evidence rule" shall apply, and appeals may be taken as in other civil cases. It is further provided that all those counties comprising the Twenty-fifth Senatorial District be exempt from the provisions of this Act.

**Rules and regulations; disposition of license fees**

Sec. 6. Within thirty (30) days after the effective date of this Act, the Commissioner of Agriculture of the State of Texas shall make rules and regulations governing the sale, exchange, barter and gift of all 2, 4-D and all other hormone type herbicides and regulating the use thereof, which said rules and regulations shall conform as far as possible to the recommendations of the United States Department of Agriculture and of the Texas Agricultural and Mechanical College System, and shall include the following:

(a) A provision that no person shall transport over or across country for a distance greater than five (5) miles, in the distributing equipment from which same is applied upon any land, any 2, 4-D or other hormone type herbicides, nor shall such distributing equipment be moved a greater distance than five (5) miles from the location where said chemicals have been applied to land, until same has been flushed out with a minimum of twenty (20) gallons of clean water; provided, however, that this provision shall not apply to the transportation of such chemicals in sealed transport containers as distinguished from the transporting of same in bulk or in distributing equipment; and provided further that the Commissioner of Agriculture may by proper rule and regulation extend the area over which same may be transported in bulk or in the distributing equipment not to exceed twenty-five (25) miles, in certain territory in this State where it is necessary and desirable to extend same and where proper safeguards can be taken to prevent any damage resulting from such transportation.

(b) All water put into any tank of any distributing equipment must be screened through a screen of not less than seventy-five (75) mesh.

(c) No license shall be granted or renewed for the use of any equipment for the application of 2, 4-D, or any other hormone type herbicides, upon any land in this State without thorough inspection and approval of all distributing equipment to be made by inspectors designated by the Commissioner qualified to pass upon the serviceability of the type of equipment used, which said equipment and specifications thereof shall be not less than minimum recommendations of the United States Department of Agriculture and the Texas Agricultural and Mechanical College System.

(d) All distributing equipment shall be subject to such inspections to be made under the direction of the Commissioner of Agriculture for determining whether or not the equipment complies with this Act and with the rules and regulations to be promulgated by the Commissioner of Agriculture.

(e) The Commissioner shall make rules and regulations providing that the wind gauges must be in operation all during the application, and describing the type of wind gauge equipment or anemometer to be used whenever land is subjected to the application of any hormone type herbicides, which regulation shall include a prohibition of such application when the wind velocity exceeds ten (10) miles per hour.

(f) The Commissioner shall also make rules and regulations governing the inspection of all lands on which said 2, 4-D, or other hormone type herbicides are applied, such inspections to be made by the Commissioner

of Agriculture, or his agents, or by designated public officials in the vicinity of the lands upon which said applications are to be made, and the Commissioner is authorized to designate any county or precinct official in the vicinity for such purpose, and the owner or owners, or person or persons in control of such lands, as a prerequisite to the use of such chemicals, shall grant permission to such officials to enter upon their premises at any time before, during or after such applications for the purpose of making such inspections.

Said rules and regulations shall be published by the Commissioner of Agriculture in printed form and a copy thereof delivered to each applicant for any permit or license herein provided for, and said regulations shall be open to public inspection at all times, and upon request made by any interested person for a revision of said rules and regulations so promulgated, the Commissioner of Agriculture shall hold a public hearing at a reasonable time and give notice of such hearing by publishing the same in a newspaper of general circulation in the City of Austin, Travis County, Texas, one (1) time at least ten (10) days before any such hearing is held. No more than one (1) such hearing shall be held in every ninety (90) days unless in the discretion of the Commissioner more frequent hearings are required for the protection of the public. Each revision of said rules and regulations made either before or after any such hearing shall be published in the same manner as above provided for the publishing of the rules and regulations originally promulgated. Any person who is dissatisfied with the rules and regulations as promulgated by the Commissioner of Agriculture after a hearing may, within twenty (20) days after the decision of the Commissioner has been announced, file suit in any of the District Courts in Travis County for the purpose of testing the reasonableness of such rules and regulations, in which case the rules of procedure governing appeals from orders of the Railroad Commission of Texas shall be followed and the "substantial evidence" rule shall apply, and appeals may be taken as in other civil cases.

All license fees collected by the Commissioner of Agriculture under the provisions hereof shall be placed in a special fund in the State Treasury to be known as "The 2, 4-D License Fund," which fund shall be available to the Commissioner of Agriculture for the purpose of defraying expenses which accrue in the administration of the provisions hereof and same shall be paid out by the State Treasurer upon warrants based upon vouchers issued therefor by the Commissioner of Agriculture.

#### **License fees; conditions precedent**

Sec. 7. All persons licensed under the provisions of this Act shall pay a license fee to the Commissioner of Agriculture of Twenty-five Dollars (\$25), and for each piece of equipment licensed hereunder a similar fee shall be paid to cover the expense of inspection and issuance of the license, and no license shall be issued unless the applicant demonstrates to the satisfaction of the Commissioner of Agriculture that he has fully complied with the provisions of this Act, and, that the licensed equipment under any such license conforms with the regulations governing same and each piece of equipment licensed shall be accurately described in the license issued, and no person shall use any piece of equipment for applying 2, 4-D, or other type herbicides, to any land in this State unless same shall have been described in such license and inspected and approved before issuance thereof by the Commissioner of Agriculture, or his agents.

**Amended rules and regulations**

Sec. 8. Whenever any changes in the rules and regulations are made by the Commissioner of Agriculture, after the first publication thereof, all dealers and users of 2, 4-D, or other hormone type herbicides, shall be given fifteen (15) days within which to comply with said amended rules and regulations after their publication, but, in the interim, they shall comply with all previously promulgated rules or regulations.

**Time for compliance of rules and regulations**

Sec. 9. After the promulgation and publication of the rules and regulations by the Commissioner of Agriculture herein provided for, all persons affected by the provisions of this Act shall have twenty (20) days within which to comply with this Act and with said rules and regulations, and anyone failing to comply with this Act and said rules and regulations within twenty (20) days after the promulgation and publication of such rules and regulations by the Commissioner shall be deemed to be guilty of violating this Act.

**Violations of law, rules or regulations**

Sec. 10. Any person violating any of the provisions of this Act, or any of the provisions contained in the rules and regulations promulgated by the Commissioner of Agriculture under authority hereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000). The penalty herein provided shall be cumulative of all civil penalties and liabilities to which such persons may be subjected under the General Law, and any person convicted hereunder shall forfeit any license he may hold under this Act, and same may not be reissued to him within thirty (30) days after such forfeiture. Anyone convicted of willfully violating this law, any part thereof, or the rules or regulations pertaining thereto may not be reissued a license at any time.

**Partial invalidity**

Sec. 11. If any Section, portion, paragraph, sentence, clause or phrase of this Act be held invalid for any purpose, it shall not in any way affect the remainder of said Act, it being the intention of the Legislature to enact each portion hereof separately, and the invalidity of any portion shall not affect the validity of the remainder hereof. Acts 1949, 51st Leg., p. 873, ch. 471.

Emergency. Effective June 23, 1949.

Section 12 repealed all conflicting laws and parts of laws.

**CHAPTER NINE—SOIL CONSERVATION AND PRESERVATION**

Art.

165a—8. Grants to soil conservation districts; powers and duties [New].

**Art. 165a—8. Grants to soil conservation districts; powers and duties**

**Appropriation; eligibility; making of grants**

Section 1. There is hereby appropriated out of the General Fund of the State Treasury not otherwise appropriated the sum of Two and One-

Half Million Dollars (\$2,500,000) for the fiscal year ending August 31, 1950, and the sum of Two and One-Half Million Dollars (\$2,500,000) for the fiscal year ending August 31, 1951, to the several soil conservation districts in Texas. A soil conservation district shall be eligible to receive grants for each period of the biennium after it has been duly organized and a Certificate of Organization for the district has been approved and signed by the Secretary of State. All grants to soil conservation districts shall be made by the State Soil Conservation Board based on the Board's determination of equity and need of the district applying for grant.

#### **Approval of grants; certification**

Sec. 2. Approval of all grants to soil conservation districts as provided for in this Act, shall be certified to the State Comptroller of Public Accounts by the State Soil Conservation Board. Such certification of approval by the State Soil Conservation Board presented to the said Comptroller shall be sufficient authority for the Comptroller to issue his warrants against any appropriations made for grants to soil conservation districts, and shall also be sufficient authority for the State Treasurer to honor payment of such warrants.

#### **Purchase of machinery or equipment**

Sec. 2a. Any item of machinery or equipment, the purchase price of which exceeds One Thousand Dollars (\$1,000), shall be purchased through the Board of Control under such regulations and terms as is required by State Law governing purchases for the State or any of its political subdivisions which make purchases through the Board of Control.

#### **Audit of accounts**

Sec. 3. An annual audit of the accounts of receipts and disbursements together with an inventory of supplies and equipment of all districts receiving grants, as is provided in this Act, shall be made by the State Auditor and efficiency expert. A maximum fee for the auditing of the accounts of a district shall be set up by the State Auditor and efficiency expert bearing as nearly possible the actual expense incurred in making such audits. The expense of the audit shall be paid by each soil conservation district involved out of local funds. A report of such audits shall be made available to the Governor of the State, to the State Soil Conservation Board, and the Members of the Legislature.

#### **Duties and powers of supervisors**

Sec. 4. The supervisors of soil conservation districts shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property in such amounts as may be fixed by said supervisors and shall provide for the keeping of a full and accurate record of all proceedings, of all resolutions, regulations and orders issued or adopted.

A. The supervisors of soil conservation districts shall confer, advise and consult with the governing body of any municipality or county located within or near the territory comprising the district on all questions of program and policy which may affect the property, water supply or other interests of such municipality or county, but no existing rights of such municipality or county shall be impaired or affected.

B. The supervisors of soil conservation districts shall advise with land owners and land occupiers regarding soil conservation measures within the district including, but not limited to engineering operations, methods of cultivation, the growing of vegetation, changes in use of land by appropri-



ate corrective methods to conserve soil resources and the control and prevention of soil erosion. Among the procedures approved for widespread practice are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and the like, the utilization of strip cropping, lister furrowing, contour cultivating and contour furrowing, land irrigation, drainage, seeding and planting of waste, sloping, abandoned or eroded lands with water-conserving and erosion-preventing plants, trees, and grasses, forestation and reforestation; rotation of crops, soil stabilization and trees, grasses, legumes and other thick-growing, soil-holding crops, retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now gullied or otherwise eroded, on lands owned or controlled by this State or any of its agencies, with the consent and the cooperation of the agency administering and having jurisdiction thereof, and on any lands within the district upon obtaining the consent of the occupiers or owners of such lands or the necessary rights or interests in such lands; provided, however, that the owner or occupier of such land shall be required to furnish all plants, seeds, grasses, legumes, trees and crops which may be planted upon such area or areas at no expense to the district.

C. The supervisors of soil conservation districts may cooperate, or enter into agreements with, and within the limits of appropriations or grants duly made available to them by law, to furnish financial or other aid to any governmental agency or any owner or occupier of lands within the district in need thereof, in the carrying on of erosion control and prevention operations within the district, upon such terms and conditions as the supervisors may prescribe to advance the purposes of this Act, and as the owner or occupier of the land shall approve.

D. The supervisors of soil conservation districts may make available on such terms as shall be prescribed, to land owners or occupiers within the district, agricultural and engineering machinery and equipment, as will assist such land owners or occupiers to carry on operations upon the lands for the conservation of soil resources and for the prevention and control of soil erosion; provided, however, that the charge in any particular project shall never be less than the actual cost to the particular districts for labor, maintenance, depreciation and replacement of equipment.

E. The supervisors of soil conservation districts may develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible the acts, procedures, performances and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, crop programs, tillage practices and changes in use of land, and publish such plans and information and bring them to the attention of owners or occupiers of lands within the district; provided, however, that no land owner or occupier shall be required to accept or to abide by such plans.

F. The supervisors of soil conservation districts may, with the consent of the land owner, acquire by purchase, gift or lease and administer, any soil conservation, erosion-control or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this State or any of its agencies; manage, as agent of the United States or any of its agencies, or of this State or any of its agencies, any soil conservation, erosion-control or erosion-prevention project within its boundaries; to act as agent for the United States or any of its agencies, or for this State or any of its agencies, in connection

with the acquisition, construction, operation or administration of any soil conservation, erosion-control or erosion-prevention project within its boundaries; accept donations, gifts and contributions in money, services and materials, from the United States or any of its agencies, or from this State or any of its agencies, and to use or expend such moneys, services, materials or other contributions in carrying on its operations. The supervisors shall make a full accounting of all such donations, gifts and contributions to the State Soil Conservation Board. It is provided, however, that the funds herein appropriated shall not be used for the purchase or leasing of any lands.

**Unexpended funds; discontinuance of districts**

Sec. 5. Any funds granted hereunder to any soil conservation district which shall remain unexpended at the end of the biennium shall revert to the General Fund. Provided, however, that upon the discontinuance of any soil conservation district or its failure to operate, as may be determined by the State Soil Conservation Board, then any funds remaining therein unexpended during the biennium may be reallocated by the State Board to soil conservation districts functioning in the area, upon application of the district to the State Board; and provided, further, that if any organized soil conservation district is dissolved by a vote of the land owners or occupiers for the purpose of adjusting boundary lines and is immediately reorganized by a vote of the land owners or occupiers, any funds or equipment owned by the district prior to such reorganization shall pass to the credit of such district upon such reorganization.

**Deposit and withdrawal of funds**

Sec. 6. Grants to soil conservation districts as provided in this Act, when received by the district, shall be deposited in the name of the district; such deposit shall be with a State or National bank or banks. Any withdrawal of such funds so deposited to the credit of the district may be withdrawn only on approval of the board of supervisors of the district. All checks or orders for such withdrawal shall be signed by the chairman and secretary of the board of supervisors of the district. Acts 1949, 51st Leg., p. 1000, ch. 540.

Emergency. Effective July 6, 1949.

**CHAPTER ELEVEN—COTTON**

Art.

165—4b. Use of appropriations; quorum  
 [New].

**Art. 165—4a. Agricultural agencies to stress increased use and outlet of products; cotton research committee**

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

Sec. 2. A Cotton Research Committee composed of the Chancellor of the Texas Agricultural and Mechanical College and the Presidents of the University of Texas and Texas Technological College is hereby created and established to cause surveys, research and investigations to be made relating to the utilization of the cotton fiber, cottonseed, and all other products of the cotton plant, with authority to contract with any or all Agricultural Agencies and Departments of the State, and all State Educational Institutions and State Agencies to perform any such services for said Committee and for the use of their respective available facilities, as it may deem proper, and reimburse such Agencies, Departments and Institutions for the cost thereof, to be paid from money appropriated by the Legislature for the purposes of this Act, which appropriations of monies for cotton research are hereby authorized; grants and gifts from the United States or private sources may be accepted for such purposes, and shall be subject only to limitations contained in such grants or gifts. As amended Acts 1949, 51st Leg., p. 832, ch. 451, § 1.

Emergency. Effective June 19, 1949.

#### Art. 165—4b. Use of appropriations; quorum

All sums of money appropriated for the purposes of this Act<sup>1</sup> shall be used for such purposes under the authority and direction of the Cotton Research Committee and paid by warrants issued by the Comptroller of Public Accounts on claims approved by a majority of said Committee, which may include compensation to necessary employees of such Committee. A majority of said Cotton Research Committee shall constitute a quorum. Acts 1949, 51st Leg., p. 832, ch. 451, § 2.

<sup>1</sup> This article and art. 165—4a.

### CHAPTER 13.—ANTIFREEZE [NEW]

Art.

165—6. Sale of antifreeze regulated.

#### Art. 165—6. Sale of Antifreeze regulated

##### Definitions.

Section 1. As used in this Act, the following words and phrases shall have the following meanings:

(a) "Antifreeze" shall mean all substances and preparations intended for use as a cooling medium or to be added to the cooling liquid in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point.

(b) "Person" shall mean individuals, partnerships, corporations, and associations, and shall include the singular and the plural.

(c) "Commissioner" shall mean the Commissioner of Agriculture.

(d) "Manufacturer or distributor" shall mean the initial or original maker, canner or packer of the antifreeze if the antifreeze is made, canned or packed in this State initially or originally, but if the antifreeze is made, canned or packed out of this State, the term shall then be confined to the first consignee or receiver of antifreeze in this State whose function it is to distribute, sell or consign the antifreeze to retailers, wholesalers or consumers in this State; provided, however, that in any case where the antifreeze is made either within or without this State by one person for another person, which other person is the initial or original marketer of the antifreeze under his own name or brand name, the term shall then be confined to such other person.

(e) "Label" means the written, printed or graphic matter on the immediate or outside container of the antifreeze.

(f) "Labeling" means all labels upon any article or any of its containers or wrappers, accompanying such article, to which reference is made on the label or literature accompanying such article, or which relates or refers to the article for the purpose of inducing the sale thereof.

(g) "Adulterated" shall mean, and shall apply to, any antifreeze (1) if it consists in whole or in part of any substance which will render it injurious to the cooling system of an internal combustion engine or will make the operation of the engine dangerous to the user; or (2) if its strength, quality or purity falls below the standard of strength, quality or purity under which it is advertised and sold.

(h) "Misbranded" shall mean, and shall apply to, any antifreeze (1) if its labeling is false or misleading in any particular; or (2) if in package form it does not bear a label containing the name and place of business of the manufacturer, packer, canner, seller, or distributor and an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package.

#### **Registering of antifreeze with the Commissioner of Agriculture.**

Sec. 2. Before any antifreeze may be sold, exposed for sale, or held with intent to sell, within this State, the same must be registered with the Commissioner of Agriculture. Upon the application of the manufacturer or distributor and the payment of the fee prescribed in this Section, the Commissioner of Agriculture shall register any antifreeze not adulterated or misbranded, as those terms are defined in Section 1 of this Act. Such registration shall be valid for one (1) year unless sooner cancelled or a change is made in the name, brand, label, trade-mark or contents of the antifreeze. If the antifreeze does not meet all requirements of this Act, registration shall be refused and its sale shall be unlawful. Application for registration and payment of the fee shall be made annually during the month of December of every year or prior to placing such antifreeze on the market, and said registration shall expire on the 31st day of December of the year next following its issuance. The fee shall be Twenty Dollars (\$20) for each brand of antifreeze sold.

#### **Label contents.**

Sec. 3. Every label of every container of antifreeze shall contain the following information, including (1) the name, brand or trade-mark of the product; (2) the name and address of the manufacturer or distributor; (3) the net weight or measure, as the case may be, of the contents of the package or can; and (4) the chemical base, contents or formula of the antifreeze, unless a statement thereof on the label shall be prohibited by any law, rule or regulation of the Federal Government or of any department or agency thereof. Failure to include any of the foregoing information on the label shall be an offense hereunder.

#### **Seizure of antifreeze by the Commissioner.**

Sec. 4. The Commissioner may seize all antifreeze, the manufacture, transportation, sale or use of which is prohibited by this Act or which is manufactured, sold, used, transported, kept or offered for sale, use or transportation, or had in possession with intent to sell, use or transport in violation of any provision of this Act or in violation of any rule, regulation, definition or standard promulgated by the Commissioner hereunder. Such seizure may be made without a warrant. For obtaining

information regarding the suspected violations of this Act, the Commissioner, his assistants, appointees, agents or employees shall have access to all places where any antifreeze is sold, stored, transported or held for sale, and they may inspect any antifreeze found and take samples for analysis.

**Administration by the Commissioner of Agriculture.**

Sec. 5. The Commissioner of Agriculture shall administer the provisions of this Act, and shall have authority to promulgate rules and regulations to implement its administration and to provide standards for antifreeze. The revenue realized from the collection of fees hereunder shall be used by the Commissioner in the administration of this Act, and it is hereby appropriated to the Commissioner of Agriculture for that purpose.

**Alteration or adulteration of antifreeze.**

Sec. 6. Any person who shall alter, adulterate or change the composition of any brand of antifreeze as registered in accordance with the provisions of this Act shall be guilty of an offense hereunder, unless approval of such change by the Commissioner has first been obtained.

**Selling unregistered antifreeze.**

Sec. 7. Any person who shall sell or offer for sale any antifreeze which is not duly registered in accordance with the provisions of this Act shall be guilty of an offense hereunder.

**Exceptions.**

Sec. 8. The provisions of this Act shall not apply to (1) finished antifreeze in transit through the State or in storage within the State intended for sale outside the State; (2) antifreeze ingredient materials in transit or in storage intended for manufacturing, processing, mixing, packing or canning within this State; (3) common or private carrier and warehousemen, or any employee thereof, while engaged in lawfully transporting and storing antifreeze; (4) public officers while engaged in the performance of their official duties.

**Penalty.**

Sec. 9. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction hereof shall be fined not less than Ten Dollars (\$10) nor more than Five Hundred Dollars (\$500).

**Severability.**

Sec. 10. If any section, subsection or part of this Act shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining portions hereof, it being hereby expressly stated that the Legislature would have enacted such Act without respect to such section, subsection or part so held to be unconstitutional or invalid. Acts 1949, 51st Leg., p. 524, ch. 288.

Emergency. Effective May 27, 1949.

## CHAPTER 14.—POULTRY [NEW]

Art.

165—7. Poultry and turkey improvement plans; state agency designated.

## Art. 165—7. Poultry and turkey improvement plans; state agency designated

The Poultry Improvement Board of the Texas Poultry Improvement Association is hereby designated as the official State agency to cooperate with the United States Department of Agriculture in administering the National Poultry Improvement Plan and National Turkey Improvement Plan, and said Poultry Improvement Board of the Texas Poultry Improvement Association is authorized to establish and promulgate necessary rules and regulations and to supervise and carry out the approved plan. Acts 1949, 51st Leg., p. 955, ch. 524, § 1.

Emergency. Effective July 1, 1949.

**Title of Act:**

An Act designating the Poultry Improvement Board of the Texas Poultry Improvement Association as the official State agency to cooperate with the United States De-

partment of Agriculture in administering the National Poultry Improvement Plan and National Turkey Improvement Plan with authority to promulgate the necessary rules and regulations; and declaring an emergency. Acts 1949, 51st Leg., p. 955, ch. 524.

**TITLE 5—ALIENS****Art.**

176B. Time for filing reports [New].

**Art. 176B. Time for filing reports**

All aliens required by this Title to file with the appropriate County Clerk a report of their ownership of lands within this State are allowed six (6) months, after the acquisition of such land or interest therein, within which to file such report with the appropriate County Clerk. Any alien corporation shall have six (6) months after its incorporation in this State, or after permit to do business is issued to such corporation in this State, or after the acquisition of land or interest therein in this State, to file with the appropriate County Clerk the report required by this Title. In the event any corporation not an alien corporation should hereafter become an alien corporation by a transfer of its stock or equitable interest therein or rearrangement of its corporate structure, and if such corporation owns land in this State, then it shall have six (6) months after becoming an alien corporation within which to file with the appropriate County Clerk the report required by this Title.

All aliens and alien corporations shall have a period of six (6) months after the effective date of this Act in which to file a report of their ownership of lands which they had acquired prior to the effective date of this Act. Added Acts 1949, 51st Leg., p. 485, ch. 262, § 1.

Emergency. Effective May 27, 1949.

## TITLE 8—APPORTIONMENT

### Art. 199. 30, 22, 17 Judicial Districts

#### 7.—Smith

The terms of the District Court of the 7th Judicial District of Texas composed of Smith County shall be held as follows:

##### Smith County.

On the first Mondays in March and August of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court.

The Judge of said Court in his discretion may hold as many sessions of Court in any terms of the Court as is deemed proper and expedient for the dispatch of business. As amended Acts 1949, 51st Leg., p. 316, ch. 150, § 1.

Emergency. Effective May 12, 1949.

Sections 3, 4, 6 and 9 of the Act of 1949, read as follows:

"Sec. 3. All processes issued, bonds, recognizances made, and all grand and petit juries drawn in the Counties of Upshur and Wood before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Court as herein fixed in the respective Counties as though issued and served for such terms and returnable to and drawn for the same.

"Sec. 4. The District Clerk of the 7th Judicial District shall be, and is hereby, required within thirty (30) days after the effective date of this Act, to make a full and complete transcript of all original paper upon the civil and criminal docket heretofore made in cases which by this Act are required to be transferred to the 115th District Court; to prepare a certified bill of costs in each case; and to transmit the same; together with all the papers pertaining to such cases, to the District Clerk of the 115th Judicial District; all such cases

shall be immediately docketed by the District Clerk of the 115th Judicial District for the next succeeding term of each Court in the respective Counties.

"Sec. 6. The District Judge of the 7th Judicial District heretofore composed of Upshur, Wood, and Smith Counties shall continue in office as Judge of the 7th Judicial District now composed of Smith County for the remainder of his term of office.

"Sec. 9. If any section, subsection or portion of this Act shall be held invalid, such invalidity shall not affect the remaining portions; and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity."

For sections 2, 5, 7 and 8 of the Act of 1949, see 115th Judicial District, post, and the notes thereunder.

Upshur and Wood Counties were detached from the 7th Judicial District and a new 115th Judicial District was established, to be composed of Upshur and Wood Counties, by Acts 1949, 51st Leg., p. 316, ch. 150.

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

##### Special Ninth District Court of Montgomery, Polk, San Jacinto and Trinity Counties

##### Trinity County

Sec. 9. Said Special Ninth 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 extended by House Bill No. 353, of the Acts of the Regular Session of the Fiftieth Legislature, and hereby extended, shall cease to exist on the thirtieth day of June, 1953, at which time the term of office of the Judge of said Court shall expire by limitation of law. As amended Acts 1949, 51st Leg., p. 497, ch. 271, § 1.

Emergency. Effective June 30, 1949.



11, 55, 61, 80, 113, 127, 133, 129.—Harris

\* \* \* \* \*

The 129th Judicial District Court of Harris County is hereby continued as a permanent regular District Court, and the 133rd Judicial District Court of Harris County is hereby also continued as a permanent regular District Court. The Judge of the 129th Judicial District Court of Harris County shall be the Judge of the 129th Judicial District Court of Harris County as constituted and reorganized by this Section until January 1, 1953, and until his successor shall be duly elected and qualified; and the Judge of the 133rd Judicial District Court of Harris County shall be the Judge of the 133rd Judicial District Court of Harris County as constituted and reorganized by this Section until January 1, 1953, and until his successor shall be duly elected and qualified. For the term of office beginning January 1, 1953, and for all terms thereafter, such Judges shall be elected as provided by the Constitution and Laws of the State of Texas for the election of District Judges, and the Judges so elected shall hold office for such term of office as is provided by the Constitution and Laws of the State of Texas for District Judges. Each of said Courts shall continue after the effective date of this Act to exercise as regular permanent District Courts the jurisdiction conferred upon them by House Bill No. 310, Chapter 308, Acts of the Fiftieth Legislature, Regular Session, 1947, with respect to all matters heretofore filed and now pending or hereafter filed or pending therein, it being the purpose of this Act that each of said Courts shall proceed with the business of said Courts, respectively, without interruption or change, except as herein provided, and it is so enacted. As amended Acts 1949, 51st Leg., p. 1354, ch. 616, § 1.

\* \* \* \* \*

Effective 90 days after July 6, 1949, date of adjournment.

Acts 1949, 51st Leg., p. 1354, ch. 616, § 1, amends section 2 only of Acts 1947, 50th Leg., p. 525, ch. 308, so as to provide for

the continuation of the 129th Judicial District Court of Harris County and the 133rd Judicial District Court of Harris County as permanent regular district courts.

14, 44, 68, 95.—Dallas

Dallas county, see, also, 134th District, post.

19, 54, 74.—McLennan

Sec. 8. The 74th District Court shall have and exercise concurrent jurisdiction with the County Court of McLennan County in all misdemeanor cases of which the County Court of McLennan County has original jurisdiction. Added Acts 1949, 51st Leg., p. 1177, ch. 591, § 1.

Sec. 9. The County Clerk of McLennan County shall keep a docket and a motion docket for misdemeanor causes filed in the 74th District Court in like manner as is now provided for by Law for the County Court of McLennan County, and said cause or causes shall be docketed as now provided by Law for the County Court of McLennan County. Added Acts 1949, 51st Leg., p. 1177, ch. 591, § 1.

Sec. 10. The Criminal District Attorney of McLennan County and all other officers shall receive the same fees in misdemeanor causes in the 74th District Court as are now provided by Law in the County Court of McLennan County and the cost tax in said causes in said 74th District Court shall be the same as for the County Court of McLennan County, and such cost in such causes shall be paid to the County Clerk of McLennan County. Added Acts 1949, 51st Leg., p. 1177, ch. 591, § 1.

Sec. 11. In trial of misdemeanor causes in the 74th District Court the trials, pleadings and practice shall be the same as provided by Law for the County Court of McLennan County. Added Acts 1949, 51st Leg., p. 1177, ch. 591, § 1.

Sec. 12. The 74th District Court shall try all misdemeanor cases coming before it with six (6) jurors unless a jury be waived by the defendant. Added Acts 1949, 51st Leg., p. 1177, ch. 591, § 1.

Emergency. Effective July 22, 1949.

### 28.—Nueces, Kleberg, and Kenedy

Nueces, Kleberg and Kenedy counties, see, also, the 105th District, post.

### 36.—Aransas, San Patricio, Bee, Live Oak and McMullen

The Thirty-sixth Judicial District shall be composed of the Counties of Aransas, San Patricio, Bee, Live Oak and McMullen, and the terms of this District Court shall be held therein each year as follows:

In the County of Aransas, beginning on the second Monday in February and on the first Monday in September, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in Aransas County.

In the County of San Patricio, beginning on the fourth Monday in February and on the third Monday in September, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in San Patricio County.

In the County of Bee, beginning on the first Monday in April and on the first Monday in November, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in Bee County.

In the County of Live Oak, beginning on the third Monday in January and on the fourth Monday in May, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in Live Oak County.

In the County of McMullen beginning on the first Monday in January and on the third Monday in June, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in McMullen County.

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.

All process issued and returnable to a succeeding term of Court and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

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. As amended Acts 1949, 51st Leg., p. 99, ch. 59, § 1.

Emergency. Effective March 28, 1949.

**51.—Tom Green, Irion, Schleicher, Coke and Sterling**

Sec. 2. The 51st Judicial District of Texas shall continue as it is now to be composed of the Counties of Tom Green, Coke, Irion, Schleicher and Sterling; the terms of the District Court shall be held therein each year as follows:

In the County of Tom Green on the first Monday in January and the second Monday in May. Each term of Court in Tom Green County may continue until the date herein fixed for the beginning of the next succeeding term therein.

In the County of Coke terms to begin and be held as follows, to wit: On the first Monday in March and may continue in session three (3) weeks; on the second Monday in June and may continue in session three (3) weeks; and on the sixth Monday after the first Monday in September and may continue in session three (3) weeks.

Irion County: A term to begin on the third Monday after the first Monday in March and may continue in session two (2) weeks; and a term to begin on the first Monday in September and may continue in session two (2) weeks.

Schleicher County: A term to begin on the fifth Monday after the first Monday in March and may continue in session two (2) weeks; and a term to begin on the second Monday after the first Monday in September and may continue in session two (2) weeks.

Sterling County: A term to begin on the seventh Monday after the first Monday in March and may continue in session two (2) weeks; and a term to begin on the fourth Monday after the first Monday in September and may continue in session two (2) weeks.

The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in Tom Green County as is deemed by him proper and expedient for the dispatch of business.

All processes issued, bonds and recognizance 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.

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. As amended Acts 1949, 51st Leg., p. 492, ch. 268, § 1.

Emergency. Effective May 27, 1949.

**70.—Midland and Ector.**

Section 1. From and after the passage of this Act, the 70th Judicial District of Texas shall be composed of and confined to the Counties of Midland and Ector.

Sec. 2. The terms of the 70th Judicial Court shall be as follows:

In the County of Midland on the first Monday in February, April, June, September, and November.

In the County of Ector on the first Monday in January, March, May, July, October, and December.

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. As amended Acts 1949, 51st Leg., p. 620, ch. 330.

Effective 90 days after July 6, 1949, date of adjournment.

Section 3 of the Act of 1949 provided that the judge of the 70th Judicial Dis-

trict should continue to hold the office until his term expired and his successor was elected and qualified. Section 4 contained the same provision with regard to the

District Attorney. Section 5 provided that ties of Midland and Ector. Sections 6 to the Court Reporter of such district should 17, see 118th Judicial District. continue to act as such in and for the coun-

#### 75.—Hardin, Liberty, Tyler and Chambers.

Section 1. The terms of the District Court of the 75th Judicial District of this State, composed of the Counties of Hardin, Liberty, Tyler and Chambers, shall be held as follows:

Hardin County. On the first Mondays of March and September of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Hardin County;

Liberty County. On the first Mondays of April and October of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Liberty County;

Tyler County. On the first Mondays of May and November of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Tyler County;

Chambers County. On the first Mondays of June and December of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Chambers County.

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.

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 each county as herein fixed, as though issued and served for such terms and returnable to and drawn for the same.

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 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. As amended Acts 1949, 51st Leg., p. 319, ch. 152, § 1.

Emergency. Effective May 12, 1949.

#### 76.—Titus, Franklin, Camp, Morris, and Marion

Section 1. The 76th Judicial District of Texas shall be composed of the Counties of Titus, Franklin, Camp, Morris and Marion, and the terms of the District Court within said Counties shall be held therein as follows:

In Titus County, beginning on the first Monday in January of each year and may continue in session until the convening of the next regular term; on the sixteenth Monday after the first Monday in January of each year, and may continue in session until the convening of the next regular term; on the thirty-seventh Monday after the first Monday in January in each year and may continue in session until the convening of the next regular term.

In Franklin County, beginning on the fifth Monday after the first Monday in January in each year, and may continue in session until the convening of the next regular term; on the thirtieth Monday after the first Monday in January of each year and may continue in session until the convening of the next regular term.

In Camp County, beginning on the eighth Monday after the first Monday in January and may continue in session until the convening of the next regular term; on the thirty-third Monday after the first Monday in January in each year, and may continue in session until the convening of the next regular term.

In Morris County, beginning on the twelfth Monday after the first Monday in January in each year, and may continue in session until the convening of the next regular term; on the forty-second Monday after the first Monday in January in each year, and may continue in session until the convening of the next regular term.

In Marion County, beginning on the twentieth Monday after the first Monday in January in each year, and may continue in session until the convening of the next regular term; on the forty-sixth Monday after the first Monday in January in each year, and may continue in session until the convening of the next regular term.

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 may be deemed by him proper and expedient for the dispatch of business. As amended Acts 1949, 51st Leg., p. 210, ch. 115, § 1.

Emergency. Effective May 3, 1949.

#### 77, 87.—Limestone and Freestone

Section 1. The terms of the 77th District Court shall be as follows:

1. Limestone County: On the first Mondays in December, March, June and September of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

2. Freestone County: On the first Mondays in February, May, August and November of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term. As amended Acts 1949, 51st Leg., p. 685, ch. 357, § 1.

Emergency. Effective June 10, 1949.

Section 2 of the Amendatory Act of 1949 provided: "This Act shall be construed to be cumulative of Section 77 of Article 199,

Revised Civil Statutes of Texas, 1925, and Section 77 is repealed only to the extent of conflict with this Act."

#### 79.—Starr, Brooks, Duval and Jim Wells

The Seventy-ninth Judicial District shall be composed of the Counties of Starr, Brooks, Jim Wells, and Duval, and the terms of this District Court shall be held therein each year as follows:

In the County of Starr, beginning at 10:00 A.M. on the first Monday in January and at 10:00 A.M. on the first Monday in July, and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such Court in Starr County.

In the County of Brooks, beginning at 10:00 A.M. on the first Monday in February and at 10:00 A.M. on the first Monday in September and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such Court in Brooks County.

In the County of Jim Wells, beginning at 10:00 A.M. on the first Monday in March and at 10:00 A.M. on the first Monday in October and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such Court in Jim Wells County.

In the County of Duval, beginning at 10:00 A.M. on the first Monday in April and at 10:00 A.M. on the first Monday in November and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such Court in Duval County.

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.

All process issued and returnable to a succeeding term of court, and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Court of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

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, and any court in any county of said District which is not in session at the time this Act takes effect may be opened for a new term at any time at the discretion of the Judge thereof and 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. As amended Acts 1950, 51st Leg., 1st C.S., p. 90, ch. 27, § 1.

Emergency. Effective March 17, 1950.

#### 85.—Robertson and Brazos

The 85th Judicial District of the State of Texas shall be composed of the counties of Robertson and Brazos, in the State of Texas, and the terms of the District Court shall be held in said counties each year as follows:

In the County of Robertson on the first Mondays in January and July and may continue in session until the date herein fixed for the beginning of the next succeeding term therein;

In the County of Brazos on the first Mondays in April and October and may continue in session until the date herein fixed for the beginning of the next succeeding term therein. As amended Acts 1949, 51st Leg., p. 76, ch. 44.

Effective 90 days after July 6, 1949, date of adjournment.

Sections 2-6 of the amendatory act of 1949, read as follows:

"Sec. 2. The District Court of said 85th Judicial District shall have all the powers and jurisdiction conferred on District Courts by the Constitution and laws of this state, and in addition thereto shall have and exercise original and appellate jurisdiction in all civil and criminal matters and causes over which the County Courts of Robertson and Brazos Counties have jurisdiction, original or appellate, and the same are hereby transferred to the District Court of said counties.

"Sec. 3. The regularly elected County Attorney for Robertson County, and the regularly elected County Attorney for Brazos County, Texas, shall perform all the duties of District Attorneys in their respective counties, in addition to duties now imposed on the office of County Attorney under the Constitution and laws of the State of Texas.

"Sec. 4. Any term of court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

"Sec. 5. 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.

"Sec. 6. The salary of the official court reporter of his district shall be as fixed by law, and shall be paid by each county proportionately according to the population as shown by the last Federal Census."

Section 7 of the Act of 1949 repealed conflicting laws and provided that the Act should take effect on its passage and continue in force except as therein otherwise provided.

**87.—Anderson, Limestone, Freestone and Leon**

Section 1. The terms of the 87th District Court shall be as follows:

1. Anderson County: On the first Mondays in February and August of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

2. Limestone County: On the first Mondays in May and November of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

3. Freestone County: On the first Mondays in January, April, July and October of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

4. Leon County: On the fifth Monday after the first Monday in May, and on the fifth Monday after the first Monday in November of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term. As amended Acts 1949, 51st Leg., p. 686, ch. 358, § 1.

Emergency. Effective June 10, 1949.

Section 2 of the Amendatory Act of 1949, provided: "This Act shall be construed to be cumulative of Section 87 of Article 199,

Revised Civil Statutes of Texas, 1925, and Section 87 is repealed only to the extent of conflict with this Act."

**94.—Nueces**

Nueces county, see, also, 105th District, post.

**101.—Dallas**

Dallas county, see, also, 134th District, post.

**105.—Nueces, Kleberg and Kenedy**

Section 1. An additional Judicial District is hereby created, the limits of which district shall be coextensive with the limits of the Counties of Nueces, Kleberg, and Kenedy, to be known as the 105th Judicial District, and an additional Judicial District Court is hereby created in and for the Counties of Nueces, Kleberg and Kenedy which shall be known as the 105th District Court. The 105th District Court shall have such jurisdiction as is provided by the Constitution and General Laws of this State for District Courts and in addition in the County of Nueces, it shall have and exercise jurisdiction in civil matters over which, by General Law, the County Court of Nueces County would have original jurisdiction, except that jurisdiction which is now exercised by the County Court of Nueces County; this added jurisdiction shall be concurrent with the jurisdiction of the District Court for the 117th Judicial District in Nueces County.

Sec. 2. Immediately upon the enactment of this Law, the Governor shall appoint a suitable person, having the qualifications provided by the Constitution and Laws of the State of Texas for District Judges, as Judge of the 105th District Court. He shall hold office as such Judge until the next general election, and until his successor shall be duly elected and qualified; thereafter such Judge shall be elected as provided by the Constitution and Laws of the State of Texas. The 105th District Court shall give preference to criminal cases, and the Judges of the District Courts for the 28th, 94th and 117th Judicial Districts may transfer to the docket of the 105th District Court any and all criminal cases on the dockets of said Courts and the Judge of said 105th

District Court shall thereafter have power, authority and jurisdiction to try and determine such cases so transferred to such Court, and in addition, to approve all statements of fact, bills of exceptions and to make any and all orders, decrees, and judgments proper and necessary in any criminal case theretofore tried and so transferred, subject to the same rules and regulations and other provisions of law which would have governed the Judge of the Court from which such case or cases were transferred; provided, however, that said actions be taken within the period of time prescribed by law, within which same would have been done in the court from which such case or cases were transferred, returnable to any of the Courts from which same were transferred, shall be considered as returnable to the 105th District Court herein created; and all such processes and writs are hereby legalized and validated as if the same had been made returnable to the 105th District Court herein created and at the time herein prescribed; and all bail bonds, bonds and recognizances in criminal cases pending in said named courts from which any such case or cases are transferred to the 105th District Court, binding any person or persons to appear in any of said Courts in any of the Counties named in this Act, shall have the authority to require such person or persons to appear at the first term of the 105th District Court held respectively in the Counties of Nueces, Kleberg and Kenedy, where said bail bonds, bond and recognizances have heretofore been given and taken in any of such Courts so transferring any case or cases, and there to remain in said 105th District Court in said respective Counties from day to day and from term to term until fully discharged under the same penalties as provided by law in such cases and to the same effect as if the case or matter was still pending in the District Court in which said bail bond, bond or recognizance was originally given or taken. Civil cases may be transferred from the District Courts of the 28th, 94th and 117th Judicial Districts to the 105th District Court in the same manner as cases are now transferred from the 28th or 94th or 117th District Courts to any of the other of said Courts, and the provisions of Section 4, of House Bill No. 694, Chapter 385, Acts of the Regular Session of the Fiftieth Legislature, 1947,<sup>1</sup> shall apply to the functioning of said named Courts and the 105th District in Nueces County and the Judge of the 105th District Court shall participate in the election of a presiding Judge in said county under the terms of said Act, last above referred to, and the Assignment Clerk therein provided for shall serve the 105th District Court in the same manner as such Clerk now serves said other named Courts.

Sec. 3. In the Counties of Nueces, Kleberg and Kenedy, the Judges of the 28th and 105th Judicial District Courts may sit for each other and dispose of all matters in each of said Courts without the necessity of transferring cases from one docket to another, and in the County of Nueces, the Judge of the 105th District Court shall have all of the powers, privileges and duties as do the Judges of the 28th, 94th and 117th District Courts in said counties; and the terms and provisions of Section 4, of House Bill No. 694, Acts of the Regular Session of the Fiftieth Legislature, 1947, are hereby expressly adopted by reference and applied to the 105th District Court in the same manner as same now apply to the other three (3) named Courts in said Counties.

Sec. 4. There shall be two (2) terms of the 105th District Court in each of the Counties within said District each year as follows:

In the County of Nueces, on the first Mondays in February and August, and shall continue until the convening of the next succeeding term; in the County of Kleberg, on the first Mondays in April and Oc-



tober, and shall continue until the convening of the next succeeding term; and in the County of Kenedy, on the first Mondays in June and December, and shall continue until the convening of the next succeeding term.

“The Judge of the 105th District Court, at his discretion, may hold as many sessions of court in any term of court in any 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. All existing laws relative to juries and grand juries in the counties comprising the 105th Judicial District shall apply to Juries and Grand Juries selected and impaneled by the 105th District Court.

Sec. 5. The Sheriff and Clerk of the District Courts of Nueces County, as now provided by law, shall be the Sheriff and Clerk respectively of the 105th District Court in Nueces County; and the Sheriff and Clerk of the District Courts of Kleberg County, as now provided by law, shall be the Sheriff and Clerk respectively of the 105th District Court in Kleberg County; and the Sheriff and Clerk of the District Courts of Kenedy County, as now provided by law, shall be the Sheriff and Clerk respectively of the 105th District Court in Kenedy County; and the District Attorney of the 28th Judicial District, elected or appointed, and as now acting for such District in accordance with the provisions of law, shall be the District Attorney for the 105th Judicial District Court in the Counties of Nueces, Kleberg and Kenedy; and shall hold his office until the time for which he has been elected or appointed, or otherwise qualified and acting as such District Attorney for the 28th Judicial District shall expire and until his successor is duly elected and qualified; and there shall be elected for a term of two (2) years beginning with the next general election after the effective date of this Act, a District Attorney for the 105th Judicial District of Texas whose powers and duties shall be the same as other District Attorneys and who shall serve all of the District Courts of Nueces, Kleberg and Kenedy Counties; and said Sheriffs and Clerks and District Attorney shall respectively receive such fees and salaries and expenses as are now or may hereafter be prescribed by law for such offices in the District Courts of the State of Texas, to be paid in the same manner.

Sec. 5a. The District Judge of the 105th Judicial District shall appoint an officer of the court in Nueces County of the 105th Judicial District to act as bailiff and probation officer for said court. The bailiff and probation officer shall be paid a salary out of the General Fund of said county of not more than Four Hundred (\$400.00) Dollars per month, and shall be set by the District Judge of said district with the approval of the Commissioners Court. The bailiff and probation officer shall perform any and all duties imposed upon other bailiffs and probation officers in this State under the General Laws. In addition thereto, he shall contact the employment offices within his district and assist those persons placed upon probation in obtaining employment. Added Acts 1950, 51st Leg., 1st C.S., p. 92, ch. 29, § 1.

Emergency. Effective March 17, 1950.

Sec. 6. Said 105th District Court hereby created shall have a seal in like design as now prescribed by law for District Courts.

Sec. 7. The Judge of the 105th District Court, after his appointment, shall appoint an official Court Reporter to serve said Court in accordance with existing law, who shall receive the same fees and salary as is now provided by law for the official Court Reporters of the 28th, 94th and

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

117th District Courts. Acts 1949, 51st Leg., p. 556, ch. 305, as amended Acts 1949, 51st Leg., p. 669, ch. 343, § 1.

<sup>1</sup> Article 199(28).

Emergency. Effective June 2 and June 9, 1949.

Sections 8 and 9 of the Amendatory Act of 1949 read as follows:

"Sec. 8. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such con-

flict only; as to all other laws and parts of laws this Act shall be cumulative.

"Sec. 9. If any Section, paragraph, clause, phrase, sentence or portion of this Act be held invalid or unconstitutional, such invalidity shall not affect the remainder hereof."

### 107.—Willacy and Cameron

Sec. 5a. In addition to the jurisdiction vested in the 107th District Court under the Constitution and General Laws of this State, said Court shall have and exercise jurisdiction over all civil matters over which, by General Law, the County Court of Willacy County would have original jurisdiction, except as in this Act otherwise specially provided. From and after the taking effect of this Act, the County Court of Willacy County shall cease to have or exercise any civil jurisdiction except as hereinafter specified and enumerated, but the Judge thereof shall not be restricted or deprived of any duties, rights, or powers now vested in him or required of him by the General Laws, except the civil jurisdiction by this Act transferred from said Court to the 107th District Court in said county. The County Court of Willacy County shall have and retain jurisdiction of all cases appealed from the Justice Courts, and the general jurisdiction of a Probate Court as provided by the Constitution and laws of this State, and the County Court, or the Judge thereof, shall have power to issue all writs necessary to the enforcement of the jurisdiction of said Court in all matters the jurisdiction of which, by this Act, is not transferred from said Court to the 107th District Court. All civil cases, the jurisdiction of which are transferred by this Act to the 107th District Court in Willacy County, on the docket of the County Court in Willacy County at the time this Act becomes effective, are hereby transferred to the 107th District Court of Willacy County, and the Judge of the County Court of Willacy County shall promptly make the proper orders transferring same; and all processes and writs issued out of the County Court of Willacy County in matters over which the jurisdiction is hereby transferred to the 107th District Court, shall be returnable to the 107th District Court and said writs and processes are hereby legalized in all respects. Such cases so transferred shall take their numbers on the docket of the 107th District Court of Willacy County in the order in which they are transferred. Added Acts 1949, 51st Leg., p. 678, ch. 351, § 1.

Emergency. Effective June 10, 1949.

Sections 2 and 3 of the Amendatory Act of 1949, read as follows:

"Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only, and as to all

other laws not in conflict herewith, this Act shall be cumulative.

"Sec. 3. If any section, portion or part of this Act be held void or unconstitutional, such holding shall not affect any other part hereof."

Sec. 5a. In addition to the jurisdiction vested in the 107th District Court under the Constitutional and General Laws of the State, said court shall have and exercise jurisdiction over all civil matters over which, by General Law, the County Court of Willacy County would have original jurisdiction except as in this Act otherwise specially provided, and shall have and exercise jurisdiction over all appeals in condemnation proceedings. From and after the taking effect of this Act, the County Court of Willacy County shall cease to have or exercise any civil jurisdiction except as hereinafter specified and enumerated, but the Judge thereof shall not be restricted or deprived of any duties, rights, or powers now vested in him or required of him by the General

Laws, except the civil jurisdiction by this Act transferred from said court to the 107th District Court in said county. The County Court of Willacy County shall have and retain jurisdiction of all cases appealed from the Justice Courts, and the general jurisdiction of a Probate Court as provided by the Constitution and laws of this State, and the County Court or the Judge thereof, shall have power to issue all writs necessary to the enforcement of the jurisdiction of said court in all matters the jurisdiction of which, by this Act, is not transferred from said court to the 107th District Court. All civil cases, the jurisdiction of which are transferred by this Act to the 107th District Court in Willacy County, on the docket of the County Court in Willacy County at the time this Act becomes effective, are hereby transferred to the 107th District Court of Willacy County, and the Judge of the County Court of Willacy County shall promptly make the proper orders transferring same; and all processes and writs issued out of the County Court of Willacy County in matters over which the jurisdiction is hereby transferred to the 107th District Court, shall be returnable to the 107th District Court and said writs and processes are hereby legalized in all respects. Such cases so transferred shall take their numbers on the docket of the 107th District Court of Willacy County in the order in which they are transferred. Added Acts 1950, 51st Leg., 1st C.S., p. 96, ch. 33, § 1.

Emergency. Effective March 17, 1950.

The acts of the regular and called sessions of the 51st Legislature each added a new section numbered 5a. That added at the called session was probably intended as a substitute for, or amendment of, that added at the regular session, but was not stated to be such.

Section 2 of the act of 1950 repealed conflicting laws or parts of laws to the extent of the conflict, and provided that as to laws not in conflict, the act should be cumulative. Section 3 provided that if any section, portion or part should be held void or unconstitutional the holding should not affect other parts.

### 115.—Upshur and Wood Counties

There is hereby created the 115th District Court of Texas which shall be composed of Upshur and Wood Counties, and the terms of said Court shall be held as follows:

In the County of Upshur on the first Mondays in January and June of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Upshur County.

In the County of Wood on the first Mondays in February and July, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Wood County.

The Judge of the 115th District 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. Acts 1949, 51st Leg., p. 316, ch. 150, § 2.

Emergency. Effective May 12, 1949.

Sections 5 and 7 of the Act of 1949, read as follows:

"Sec. 5. On the effective date of this Act the Governor shall appoint some qualified, duly licensed attorney to the office of District Judge of the 115th Judicial District as herein created, to serve from the effective date of this Act until the next general election.

"At the next general election there shall be elected by the qualified voters of the Counties of Upshur and Wood, the District Judge for the 115th Judicial District; and he shall serve for a term of four (4) years and shall receive such compensation

as allowed other District Judges under the general laws of this State.

"Sec. 7. The Judge of the 115th District Court is authorized to appoint an official shorthand reporter for such Court; such official shorthand reporter shall receive the same compensation as now provided by the general laws of this State."

Section 8 made appropriations for the salary of the judge of the 115th judicial district. Section 9 provided that invalidity of any part of the Act should not affect the remaining portion.

For sections 1, 3, 4, 6 and 9 of the Act of 1949, see 7th Judicial District, ante, and the notes thereunder.

**116.—Dallas**

Dallas county, see, also, 134th District, post.

**117.—Nueces**

Sec. 4. Repealed. Acts 1949, 51st Leg., p. 692, ch. 362, § 19.

Acts 1949, 51st Leg., ch. 362, § 19, provided: "This Act shall repeal Article 199, 117th Judicial District—Nueces, Section 4 and such portions of Section 5 as are in conflict herewith; but this Act shall not

be construed as repealing any other portions of Article 199, 117th Judicial District—Nueces."

Nueces county, see, also, the 105th District, ante.

**118.—Howard, Glasscock and Martin**

Sec. 6. The 118th Judicial District of Texas is hereby created and shall be composed of the Counties of Howard, Glasscock and Martin. Said District Court shall be known as the 118th Judicial District.

Sec. 7. The terms of said 118th Judicial Court shall be as follows:

In the County of Howard on the fourth Monday of August, the fourth Monday in October, the fourth Monday in January, and the fourth Monday in June.

In the County of Glasscock on the first Monday in September and on the first Monday in February.

In the County of Martin on the first Monday in October and the first Monday in January and the first Monday in June.

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. 14. The District Court of the 70th Judicial District and the District Court of the 118th Judicial District shall have such jurisdiction and power as is conferred on District Courts under the Constitution and existing laws of Texas, and such as shall be thereafter given by law.

Sec. 15. The Judges of the 70th Judicial Court and of the 118th Judicial District Court may each take a vacation and not attend Court for six (6) weeks in each year; the Judges of said Courts shall by agreement between themselves, take their vacations alternately so there shall be at all times at least one of said Judges in said Judicial Districts. Acts 1949, 51st Leg., p. 620, ch. 330.

Effective 90 days after July 6, 1949, date of adjournment.

Sections 1 to 5 of the Act of 1949 related to the 70th Judicial District. Sections 8 and 9 provided for the appointment of a district judge and district attorney to hold office until the next general election. Sections 10 and 11 made appropriations for the salaries of the district judge and district attorney. Section 12 provided for the

selection of a court reporter. Section 13 provided for the return of processes, recognizances and bonds issued or served before the Act took effect, legalized processes and juries, and provided for the continuance of sessions of the court until the term expired. Section 16 provided that unconstitutionality of part of the Act should not affect the rest of the Act. Section 17 repealed conflicting laws.

**128.—Orange**

Section 1. From and after the passage of this Act, the temporary District Court of Orange County, Texas, known as the 128th Judicial District Court and now existing by virtue of Acts, 1947, Fiftieth Legislature, Page 198, Chapter 116, is hereby continued as a permanent, regular District Court and shall continue to be designated as the 128th Judicial District Court as composed of Orange County.

Sec. 2. The terms of the said 128th Judicial District Court shall be as follows: The first Monday in January, May and September of each year; and each term of said Court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

Sec. 7. The District Court of the 128th Judicial District, as hereby created, shall have such jurisdiction and power as is conferred on District Courts under the Constitution and existing laws of Texas and such as shall be hereafter given by law. Acts 1949, 51st Leg., p. 869, ch. 468.

Effective 90 days after July 6, 1949, date of adjournment.

Sections 3-6, 8, 9 of the Act of 1949, provided:

"Sec. 3. The District Clerk of Orange County duly elected and acting as such shall be the District Clerk of said 128th Judicial District in and for Orange County, Texas, until the time for which he has been elected expires and until his successor is duly elected and qualified.

"Sec. 4. The County Attorney of Orange County, Texas, duly elected and now acting as such shall do and perform all the duties of County and District Attorney of said 128th Judicial District of Orange County, Texas, until the next general election and until his successor is duly elected and qualified, and shall receive such compensation for his services as are now or may hereafter be provided for County Attorneys performing like duties under and by virtue of the General Laws of this State.

"Sec. 5. That the present District Judge of Orange County, Texas, and of the 128th Judicial District, duly elected and acting as such, shall be the District Judge of the said 128th Judicial District in and for

Orange County, Texas, until the time for which he has been elected expires and until his successor is duly elected and qualified.

"Sec. 6. That all process issued or served before this Act takes effect including recognizances and bonds returnable to the present 128th Judicial District Court, shall be considered as returnable to the permanent 128th Judicial District Court hereby created, and all such process is hereby legalized and all grand and petit jurors drawn and selected under the existing law shall be considered lawfully drawn and selected for the next term of District Court after this Act takes effect and all such processes are hereby legalized and validated.

"Sec. 8. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

"Sec. 9. If any section, paragraph, sentence, clause or word of this Act is held to be unconstitutional, the remaining portion of the same, nevertheless, shall be valid; and the Legislature declares that the Act would have been enacted without such unconstitutional portion."

#### 134.—Dallas

Section 1. One (1) additional District Court is hereby created in and for Dallas County, Texas, the limits of which District shall be co-extensive with the limits of Dallas County. Said Court shall be known as the 134th District Court.

Sec. 2. The 134th District Court shall not have or exercise any criminal jurisdiction, but in all other respects 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 existing District Courts of Dallas County.

Sec. 3. The term of the 134th District Court shall begin on the first Monday in January and July of each year respectively, and each term of said Court shall continue until the convening of the next succeeding term.

Sec. 4. The Governor shall appoint a suitable person as Judge of said Court, who shall hold the office until the next General Election and until his successor has been duly elected and qualified. Such person so appointed and elected shall have the qualifications provided by the Constitution and laws of this State for District Judges. Provided that said District Court shall cease to exist upon the expiration of four (4) years from the effective date of this Act.

Sec. 5. The Clerk of the District Courts of Dallas County shall, upon the taking effect of this Act, assume the duties of Clerk of the 134th District Court, and shall thereafter perform the duties of such position as if the Court had existed at the time of his election. He shall promptly prepare dockets for said Court, placing thereon each seventh and eighth pending case on the respective dockets of the 14th, 44th, 68th, 95th, 101st and 116th District Courts, continuing in this manner through said dockets until all the cases thereon are exhausted and the dockets of the eight Courts are equalized as nearly as may be; provided that no case on trial

in any of the existing District Courts, nor any case pending on appeal therefrom, shall be transferred to the docket of the Court hereby created except by special order of the Judge of the Court from which such case or cases are transferred. The cases so transferred shall bear the same docket numbers as in the court from which they are transferred, and the Judges of the existing Courts respectively shall make proper orders transferring from said Courts to the 134th District Court the cases which shall have been placed upon the docket of said latter Court in pursuance of this Act.

Sec. 6. The letters "A, B, C, D, E, F, and G," shall be placed on the docket and court papers in the respective District Courts of Dallas County to distinguish them, "A" being used in connection with the 14th District Court; "B", the 44th District Court; "C", the 68th District Court; "D", the 95th District Court; "E", the 101st District Court; "F", the 116th District Court; and "G", the 134th District Court.

Sec. 7. All suits prosecuted and proceedings hereafter instituted in the District Courts of Dallas County shall be numbered consecutively, beginning with the next number after the last number on the dockets of the existing Courts, and shall be entered by the District Clerk upon the dockets of said Courts alternatively, beginning with the 14th District Court, next the 44th District Court, third the 68th District Court, fourth, the 91st District Court, fifth, the 101st District Court, sixth the 116th District Court, and seventh, the 134th District Court.

Sec. 8. The respective Judges of the District Courts of Dallas County shall, from time to time as occasion may require, transfer cases from any one of such Courts to any other such Court in order that the business may be equally distributed among them, that the Judges thereof may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, that no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the minutes of the Court as evidence thereof and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause. Acts 1949, 51st Leg., p. 807, ch. 432.

Effective 90 days after July 6, 1949, date  
of adjournment.

**TITLE 14—ATTORNEYS AT LAW****Art. 320a—1. State Bar Act**

Sec. 4. Subdivision (a). From time to time as to the Court may seem proper, the Supreme Court of Texas shall prepare and propose rules and regulations for disciplining, suspending, and disbarring attorneys at law; for the operation, maintenance, and conduct of the State Bar; and prescribing a code of ethics governing the professional conduct of attorneys at law. When the Court has prepared and proposed such rules and regulations, it shall submit by mail a copy of each such rule and regulation, as well as all such other rules and regulations as may have been proposed and filed with the Court, supported by petition signed by at least ten per cent (10%) of the registered members of the State Bar, in ballot form to each registered member of the State Bar for a vote thereon. At the end of thirty (30) days from the time such ballots are mailed, the Court shall count the ballots that have been returned, provided that no election shall be valid unless a minimum of fifty-one per cent (51%) of the members registered shall have voted at the election at which such rule or rules are adopted; and each and all of such rules and regulations that have received a majority of the votes cast shall be by said Court declared and adopted and shall be promulgated by said Court and shall become immediately effective. Such vote shall be open to inspection by any member of the Bar. No rule or regulation shall be promulgated that has not received a majority of votes cast in the manner above-provided. Nothing herein shall be construed as authorizing the Court to prescribe fees to be charged for legal services rendered by any attorney.

Subdivision (b). The Supreme Court is further empowered and it shall be its duty to prescribe fees of not less than Four Dollars (\$4) per annum per person for members of the State Bar to be paid to the Clerk of the Supreme Court to be held by him and expended by the Court or under its direction for the purpose of the administration of this Act. Any person licensed and registered may pay to the Clerk of the Supreme Court a sum of money from which the fees owed by such person may be taken from time to time as they become due.

Subdivision (c). The Supreme Court, prior to prescribing any fee to be assessed on members of the State Bar in excess of Four Dollars (\$4) per annum, shall and must submit to the registered members of the State Bar, in ballot form, the question of whether such proposed fee assessment in excess of Four Dollars (\$4) per annum shall be so prescribed. Ballots shall be mailed to the registered members of the State Bar and at the end of thirty (30) days from the time the last of said ballots are mailed by the Court, the Court shall count the ballots that have been returned to the Court; provided that no election shall be valid unless a minimum of fifty-one per cent (51%) of the registered members of the State Bar shall have voted at the election held for such purpose, and further provided, that a majority of those members so voting shall have approved said proposed fee. Such vote shall be open to inspection by any member of the State Bar and such ballots shall not be destroyed until the expiration of twelve (12) months after the results of such election have been declared. As amended Acts 1949, 51st Leg., p. 1103, ch. 563, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

Section 2 of the amendatory act of 1949, provided: "All laws or parts of laws in conflict with this Act are hereby repealed but this shall not effect a repeal of or in

anywise impair any existing rules governing the State Bar adopted by members of the State Bar and promulgated by the Supreme Court prior to the effective date of this Act."

## **RULES OF THE STATE BAR OF TEXAS**

As amended to June 23, 1948

---

### ARTICLE V—OFFICERS

#### **Section 2. How President and Vice President Elected**

The State Bar shall elect annually from its membership a President and a Vice President in the manner and form provided in Article VI, Section 3, for the election of Directors, except that the election shall be for the entire state instead of by districts. The ballots cast at any such election shall be marked and returned by the voting member and thereafter canvassed and the results declared, as prescribed in said Section 3.

At its regular January meeting each year, the Board of Directors shall nominate by majority vote not fewer than two members of the State Bar as candidates for President and not fewer than two members of the State Bar as candidates for Vice President for the ensuing year, which nominations shall be published in the Bar Journal and by all other practicable means. All such names shall be printed on the official ballot. (For the interim between the adoption of these rules and the first election held hereunder, candidates for President and Vice President shall be nominated in accordance with the provisions of Article VI, Section 1a.)

Any other member's name shall be printed also on the ballot as a candidate for President or Vice President when a petition in writing, signed by not fewer than 175 members requesting such action, is filed with the Secretary on or before April 15. Any member may write in the names of some other member or members whose names are not printed on the official ballot, designating the order of his preference as between them, and as between them and the candidates whose names are printed on such ballot. If no candidate has a majority of the first choice votes cast, or in the event of a tie vote, then the same procedure outlined in Section 3 of Article VI shall be followed.

Every such ballot for President and Vice President shall be designated as "Official Ballot for Officers of the State Bar of Texas." The ballots shall be mailed to members at the same time as ballots for the election of Directors are mailed.

### ARTICLE VI—BOARD OF DIRECTORS

#### **Section 2. Qualifications of Director; Vacancies; How Filled**

Each elected Director shall be a resident of the district for which he is elected and upon removal from the district shall thereby automatically vacate his office. No member, except residents of Bexar, Dallas, Harris and Tarrant Counties, may be a candidate for director if the county of his residence was the county of residence of the last preceding director from that district.

If there be any vacancy, the President shall appoint some member who is a resident of the district in which the vacancy exists to serve until the next regular annual election of Directors.

Each last immediate retiring President shall be a member ex-officio of the Board of Directors for one year next succeeding his retirement.



### Section 3. How Chosen

Each Director of the State Bar shall be elected by the members of the Bar residing in the district which such director is to serve.

No member's name shall be printed on the ballot as a candidate for Director, unless a petition in writing requesting such action, signed by at least five per cent of the members residing in such district is filed with the Secretary of the State Bar. Each such petition or application must be filed with the Secretary on or before April 15 of each year after 1940.

On or before the tenth day of May of each year, the Secretary of the State Bar shall cause to be printed a ballot for each district in which a Director is to be elected for that year. On each ballot shall be printed names of each candidate with his office address and county of residence. If the election is to fill an unexpired term, the ballot shall so specify.

The Secretary on May 15 (unless that day be Sunday or a legal holiday, in which event, on the next following working day) of each year, shall send by first-class mail to each registered member of the State Bar residing in any district for which a Director is to be elected during that year, at his office address, a true copy of the ballot containing the printed names of the several candidates for Director for that district.

Each member shall indicate the order of his preference as between the several candidates on the ballot by placing a figure following each name beginning with the figure "1" for his first choice, then "2" for his second choice, and so on through the list. Any member may write in the names of other qualified member or members as his first or subsequent choice for Director and following with his order of preference as between him, or them, and the candidates whose names are printed on the ballot. Any such ballot shall be counted and tallied the same as if the ballot had been cast by merely indicating a preference as between those whose names were printed thereon. No ballot shall be counted unless the voter indicates his first and second choice preference.

The member shall sign his ballot, write under his signature his address, seal the ballot in an envelope, and mail it, first class, to the Secretary within fifteen days after the ballot has been mailed and postmarked at the city of the principal office of the State Bar. Otherwise, the ballot shall not be counted.

The Secretary shall keep the ballots in a safe container under private lock until June 5 (or the next succeeding working day if June 5 be Sunday or a legal holiday) at which time, or as soon thereafter as possible, he, together with the clerk of the Supreme Court, and such assistants as they may require and designate, shall count and tally all votes cast in all the several districts. The person receiving the majority of first choice votes in each district shall be declared elected Director for that district for the succeeding term. If no candidate has a majority of the first choice votes cast, then the candidate having the least number of votes for first choice shall be eliminated and the second choice votes cast on the ballots of such eliminated candidate for one of the remaining candidates shall be counted in accordance with the preference of the voters and added to the first choice votes of the remaining high candidates; this process of eliminating each candidate receiving the least number of first choice votes and counting the second choice votes on the ballots of such eliminated candidates shall be continued until some candidate receives a majority of the votes and is declared elected; in determining whether any candidate receives a majority of the total number of votes cast, the total number of votes for "write-in" candidates shall, if such total is less than the lowest number of first choice votes cast for a candidate whose name is printed on the ballot, be considered as if they were cast for one candidate only.

**RULES OF THE STATE BAR OF TEXAS**

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

The Secretary shall certify officially to all such results and shall mail immediately copies of his certificate to the President of the State Bar, to the Chairman of the Board and to the Clerk of the Supreme Court.

If the final result of any election shall be a tie vote between the two candidates remaining after all others have been eliminated in the count of ballots as hereinabove provided, the Secretary shall certify both names to the Board of Directors whereupon such Board shall immediately break the tie by designating which of the two candidates shall serve and the Board shall notify both candidates, the Secretary and the Clerk of the Supreme Court of its decision.

All Directors when elected shall assume office immediately after adjournment of the annual meeting next after their election.

All expenses reasonably incident to holding, canvassing, and declaring the results of the elections for Directors referred to in this Article shall be paid out of State Bar funds.

**Section 4. Staggered Terms**

At the first meeting of the Board of Directors after this amended rule is adopted and becomes effective (but not earlier than the September 1948 meeting) the eleven newly-elected Directors shall draw for three-year terms and two-year terms, the seven newly-elected Directors drawing three-year terms to serve for one year beyond the two-year term for which they were elected and the remaining four such Directors to serve for the balance of the two-year term to which elected. Likewise, the Directors whose terms under the former rule would expire in 1949 shall draw for three-year and two-year terms, the three Directors drawing three-year terms to serve for one year beyond the two years for which they were elected. In 1949 Directors shall be elected in the Districts of the remaining seven Directors and each of the seven so elected, as well as each Director thereafter elected at any annual election for Directors shall serve for a term of three years unless he shall be elected or appointed to fill an unexpired term, in which event he shall serve for the unexpired term only.

In any event any additional Congressional District is hereafter created, a Director therefor shall be elected at the next ensuing annual election for Directors for a three-year term. No Director who has served for three years shall succeed himself.

**Section 4a. Removal of Directors**

If any Director should, as determined by the Board of Directors, become incapacitated from performing his duties as Director, or if any Director should be absent from any two consecutive regular meetings of the Board of Directors or from a total of any four meetings, without cause deemed adequate by the Board of Directors, he may be removed by the Board of Directors at any regular meeting by resolution declaring his position vacant.

**Section 6. Regular Meetings**

The Board of Directors shall hold regular meetings at such times as may be designated by the Board, such meetings to be as near as may be practicable to the fourth Saturdays in January, April and September each year at a place to be selected by the majority vote of the Directors present at the last preceding meeting, and shall hold a regular meeting on the day preceding the opening day of the annual meeting of the State Bar in the city where such annual meeting is held.

## ARTICLE VIII—MEETINGS OF STATE BAR

**Section 1. Time and Place of Annual Meeting**

The annual meeting of the State Bar shall be held between June 15th and July 15th of each year at a time and place to be determined by vote of the Board of Directors at its regular January meeting preceding. The Board of Directors may at any regular or special meeting prior to the holding of an annual meeting change the date (within the above period of time) or the place of, or cancel, such annual meeting for that year.

## TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

### 1. DISTRICT ATTORNEYS

Art.

322c. 66th Judicial District; office created; election [New].

326k—13. District Attorney Seventh District; office abolished; county attorney to represent state [New].

### 2. COUNTY ATTORNEYS

331d. Assistants in counties of 27,050 to 27,075 population with two or more district courts [New].

331e. Assistants in counties of 50,900 to 60,000 having no district attorney [New].

331f. Assistant county attorney and secretary to county judge in counties on Mexican border [New].

### 1. DISTRICT ATTORNEYS

**Art. 322c. 66th Judicial District; office created; election**

Section 1. There is hereby created the office of District Attorney in the 66th Judicial District of Texas composed of Hill County, created by House Bill No. 487, Acts, 1905, Twentieth Legislature, Regular Session, page 37, as amended.

Sec. 2. There shall be elected at the next general election after the effective date of this Act and at each general election thereafter a District Attorney for the 66th Judicial District of Texas composed of Hill County, who shall represent the State of Texas in all criminal cases in the 66th District Court and perform such other duties as are or may be provided by law governing District Attorneys and he shall receive such compensation as is allowed by law to other District Attorneys in this State. The Governor shall appoint a qualified licensed attorney to serve as District Attorney for the 66th Judicial District from September 1, 1949, until the next general election and until his successor is duly elected and qualified. Acts 1949, 51st Leg., p. 688, ch. 360.

Section 3 of the act of 1949 makes the act operative Sept. 1, 1949.

**Art. 326k—4. District Attorney Seventh Judicial District, compensation**

Office abolished, see art. 326k—13.

**Art. 326k—12. Counties of 70,000 to 220,000 and counties of 39,000 to 50,000; investigators or assistants; stenographer**

Section 1. From and after the passage of this Act, in a Judicial District composed of one (1) or more counties and in which the population in any one (1) of said counties, as determined by the last preceding Federal Census, is not less than seventy thousand (70,000) and not more than two hundred and twenty thousand (220,000) inhabitants, and in which county there are two (2) or more District Courts, the District Attorney or the Criminal District Attorney, with the consent of the combined majority of the District Judges and Commissioners Court of such County, is hereby authorized to appoint at their discretion, not more than six (6) investigators or assistants; and in a Judicial District composed of one (1) or more counties and in which the population in any one (1) of said counties, as determined by the last preceding Federal Census, is not less than thirty-nine thousand (39,000) and not more than fifty thousand (50,000) inhabitants, and in which county there are two (2) or more District Courts the District Attorney or the Criminal District

Attorney with the consent of a majority of the District Judges, is hereby authorized to appoint at their discretion, one (1) investigator or assistant. Such investigators or assistants shall receive a salary of not more than Three Thousand, Seven Hundred and Fifty Dollars (\$3,750) per annum, nor less than Three Thousand Dollars (\$3,000) per annum, the amount of such salary to be fixed by the District Attorney or Criminal District Attorney and approved by a majority of the District Judges; such investigators or assistants, as well as the District Attorney or Criminal District Attorney, shall be allowed a reasonable amount for expenses not to exceed Six Hundred Dollars (\$600), each, per annum. The assistants to the District Attorney or Criminal District Attorney must be duly and legally licensed to practice law in the State of Texas, however, the investigators need not be duly and legally licensed to practice law in the State of Texas.

Sec. 2. Said District Attorney and Criminal District Attorney shall also be authorized to appoint a stenographer who shall receive a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, the amount of such salary to be fixed by the District Attorney or Criminal District Attorney and approved by a majority of the District Judges.

Sec. 3. The salary of such investigators or assistants and stenographer, and the expenses provided for in this Act shall be paid monthly by the Commissioners Court of such county out of the General Fund of the county or, at the discretion of the Commissioners Court, out of the Jury Fund of said county; said investigators or assistants may be required to give bond and shall have authority under the direction of the District Attorney or Criminal District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws.

Sec. 3a. All laws or part of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of the conflict only. As amended Acts 1949, 51st Leg., p. 916, ch. 495, § 1.

Emergency. Effective June 29, 1949.

**Art. 326k—13. District Attorney Seventh District; office abolished; county attorney to represent state**

The office of District Attorney in the 7th Judicial District of Texas is hereby abolished, and the County Attorney of each county composing said district shall represent the State of Texas in all matters wherein the State of Texas is a party, in his respective county, and shall receive such fees and compensation for his services as is provided by the General Laws of the State of Texas. Acts 1949, 51st Leg., p. 264, ch. 143, § 1.

Emergency. Effective May 10, 1949.

Section 2 of the Act of 1949 repealed all conflicting laws and parts of laws.

Title of Act:

An Act abolishing the office of District Attorney in the 7th Judicial District of

Texas; fixing the duties of County Attorneys of said district; fixing their compensation; repealing conflicting laws; and declaring an emergency. Acts 1949, 51st Leg., p. 264, ch. 143.

**2. COUNTY ATTORNEYS**

**Art. 331d. Assistants in counties of 27,050 to 27,075 population with two or more district courts**

Section 1. In any county having a population of not less than twenty-seven thousand and fifty (27,050) and not more than twenty-seven thousand and seventy-five (27,075) inhabitants according to the Federal census for

the year 1940 and in which county there are two (2) or more District Courts, the County Attorney is hereby authorized to appoint one Assistant County Attorney who has the qualifications required of County Attorneys, and who shall receive a salary of not more than Four Thousand, Eight Hundred Dollars (\$4,800) per year and not less than Two Thousand, Four Hundred Dollars (\$2,400) per year. The salary of the Assistant above provided for shall be paid in equal monthly installments monthly by the county in which such appointment is made.

Sec. 2. Should such County Attorney be of the opinion that the number of Assistants above provided for is inadequate for the efficient performance of the duties of said office, he may appoint additional Assistants under the provisions and restrictions of Article 3902 of the Revised Civil Statutes of Texas, 1925.

Sec. 3. If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or ineffective, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment has been rendered. Acts 1949, 51st Leg., p. 357, ch. 181.

Emergency. Effective May 13, 1949.

**Art. 331e. Assistants in counties of 50,900 to 60,000 having no district attorney**

Section 1. In all counties of this State having a population of fifty thousand, nine hundred (50,900) and not more than sixty thousand (60,000) 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 also performs the duties of 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 expenses 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 nowise shall be considered as a limitation on the other powers and authority of the Commissioners Court therein prescribed. Acts 1949, 51st Leg., p. 425, ch. 226.

Emergency. Effective May 20, 1949.

**Art. 331f. Assistant county attorney and secretary to county judge in counties on Mexican border**

In any county bordering on the international boundary between the United States and the Republic of Mexico, having more than thirteen

thousand (13,000) inhabitants according to the last preceding Federal Census and having a taxable property valuation in excess of Twenty Million Dollars (\$20,000,000) according to the latest approved tax rolls and having a county attorney, the Commissioners Court of such county may employ an assistant county attorney and fix his salary at not to exceed Thirty-six Hundred Dollars (\$3600) per annum and may employ a secretary to the county judge and fix his salary at not to exceed Twenty-seven Hundred Dollars (\$2700) per annum, such salaries to be payable out of the General Fund of said county in twelve (12) equal monthly installments. Acts 1949, 51st Leg., p. 763, ch. 410, § 1.

Emergency. Effective June 14, 1949.

Section 2 of the Act of 1949 repealed all conflicting laws and parts of laws.

**Title of Act:**

An Act providing for the employment of assistant County attorneys and secretaries

to county judges by the Commissioners Courts of certain counties; fixing their salaries; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1949, 51st Leg., p. 763, ch. 410.

**TITLE 16—BANKS AND BANKING****TEXAS BANKING CODE OF 1943****CHAPTER FIVE—LOANS AND INVESTMENTS****Art. 342—507. Limit of Liability of any One Borrower—Exceptions—  
Penalty**

3. Indebtedness evidenced by notes or other paper secured by liens upon agricultural products, manufactured goods, or other chattels in storage in bonded warehouses or elevators with warehouse or elevator receipts attached, cotton yard tickets, signed by a bonded weigher, when the value of the security is not less than one hundred twenty-five per cent (125%) of the indebtedness, and the bank's interest therein is adequately insured against loss, with insurance policies or certificates of insurance attached. As amended Acts 1949, 51st Leg., p. 532, ch. 294, § 1.

Emergency. Effective May 28, 1949.

**CHAPTER SEVEN—DEFINITIONS; COLLECTIONS, DEPOSITORY  
CONTRACTS**

Art.

342—707a. Deposits—Discharge from liability on public funds [New].

**Art. 342—707a. Deposits—Discharge from liability on public funds**

Any bank or depository with whom there may be deposited funds of the State or of any county, city, school district, improvement district or any other municipal subdivision or district or public agency, upon the payment of any warrant, check or draft drawn by the qualified public official or officials authorized to make withdrawals of such funds or any part thereof, shall be fully discharged of any further liability on account of the deposit covered by such withdrawals. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 7a, added Acts 1949, 51st Leg., p. 832, ch. 450, § 1.

Emergency. Effective June 19, 1949.

Section 2 of the Act of 1949 repealed all conflicting laws and parts of laws.



**TITLE 19A—THE SECURITIES ACT****Art. 600a. The Securities Act****Exempt transactions**

Sec. 3. Except as hereinafter in this Act specifically provided, the provisions of this Act shall not apply to the sale of any security when made in any of the following transactions and under any of the following conditions, and the company or person engaged therein shall not be deemed a dealer within the meaning of this Act; that is to say, the provisions of this Act shall not apply to any sale, offer for sale, solicitation, subscription, dealing in or delivery of any security under any of the following transactions or conditions:

(a) At any judicial, executor's, administrator's, guardian's or conservator's sale, or any sale by a receiver or trustee in insolvency or bankruptcy.

(b) The sale by or for the account of a pledge holder or mortgagee, selling or offering for sale or delivery in the ordinary course of business, to liquidate a bona fide debt, of a security pledged in good faith as security for such debt.

(c) Sales of securities made by, or in behalf of a vendor in the ordinary course of bona fide personal investment of his personal holdings, or change of such investment, if such vendor is not otherwise engaged either permanently or temporarily in selling securities, provided, that in no event shall such sales or offerings be exempt from the provisions of this Act when made or intended, either directly or indirectly, for the benefit of any company or corporation within the purview of this Act.

(d) The distribution by a corporation of securities direct to its stockholders as a stock dividend or other distribution paid out of earnings or surplus.

(e) The sale of an increase of capital stock of a corporation only to its stockholders and without payment of any commission or expense to any officer, employee, broker or agents, and without incurring any liability for any expenses whatsoever in connection with such distribution.

(f) The issue in good faith of securities by a company to its security holders, or creditors, in the process of a bona fide reorganization of the company made in good faith, or the issue in good faith of securities by a company, organized solely for the purpose of taking over the assets and continuing the business of a predecessor company, to the security holders or creditors of such predecessor company, provided that in either such case such securities are issued in exchange for the securities of such holders or claim of such creditors, or both, and in either such case such security holders or creditors do not pay or give or promise and are not obligated to pay or give any consideration for the securities so issued other than the securities of or claims against said company or its predecessor then held or owned by them.

(g) The transfer or exchange by, or on account of, one corporation to another or to its stockholders of their or its own securities in connection with a proposed consolidation or merger of such corporation, or in connection with the change of par value stock to nonpar value stock or vice versa, or the exchange of outstanding shares for a greater or smaller number of shares, provided that in such case such stockholders do not pay or give or promise and are not obligated to pay or give any considera-

tion for the securities so transferred or exchanged other than the securities of said corporation then held by them.

(h) The sale by a domestic corporation of its stock forfeited for a delinquent assessment, according to law.

(i) The sale to any bank, trust company, loan and brokerage corporation, building and loan association, insurance company, surety or guaranty company, savings institution or to any registered dealer, provided such dealer is actually engaged in buying and selling securities.

(j) The sale by any domestic corporation of its stock or other securities issued in good faith and not for the purpose of avoiding the provisions of this Act, so long as the total number of stockholders and security holders of said corporation does not and will not after such sale exceed twenty-five (25) and the securities are issued and disposed of without the use of advertisements, circulars, agents, salesmen, solicitors, or any form of public solicitation.

(k) The sale of an interest in any partnership, pool, or other company, not a corporation, the total membership of which does not and will not after such sale exceed ten (10), and the organization expenses of which do not or will not exceed two per cent (2%) of the total invested capital of such company.

(l) Subscriptions to capital stock necessary to qualify for incorporation when subscribed by not more than fifteen (15) incorporators in a proposed Texas corporation.

(m) Wherein the securities disposed of consist exclusively of notes or bonds secured by mortgage or vendor's lien upon real estate or tangible personal property, and the entire mortgage is sold or transferred with all of the notes or bonds secured thereby in a single transaction.

(n) Any security or membership issued by a corporation organized exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any stockholder, shareholder, or individual member, and where no commission or remuneration is paid or given or is to be paid or given in connection with the disposition thereof.

(o) The sale by the issuer, itself, of any securities that are issued by a State or National Bank, by a trust company, or building and loan association organized and operating under the laws of the State of Texas and subject to the supervision of the Commissioner of Banking of the State of Texas, or Federal Loan and Savings Association, or a company subject to the supervision of the Banking Commissioner under Senate Bill No. 165, Forty-second Legislature.<sup>1</sup> Provided however, that all salesmen acting for any bank, trust company, or company subject to the supervision of the Banking Commissioner under Senate Bill No. 165, Forty-second Legislature, in the sale of such securities within this State, shall be licensed as provided in this Act.

(p) The sale, by the issuer itself, of any securities that are issued by the United States, any political subdivision or agency thereof, any territory or insular possession of the United States, the State of Texas, any State of the United States, the District of Columbia, or by any county, city, municipal corporation, district or political subdivision of the State of Texas or any authorized agency of the State of Texas.

(q) The sale and issuance of any securities issued by any farmers' cooperative association organized under Chapter 8 of Title 93, Articles 5737-5764, inclusive, Revised Civil Statutes of Texas as amended; and the sale of any securities issued by any farmers' cooperative society or-

ganized under Chapter 5 of Title 46, Articles 2514-2524, inclusive, Revised Civil Statutes of Texas. Provided, however, this exemption shall not be applicable to agents and salesmen of any farmers' cooperative association or farmers' cooperative society when the sale of such securities is made to non-members, or when the sale of such securities is made either to members or non-members and a commission is paid or contracted to be paid to the said agent or salesmen. As amended Acts 1949, 51st Leg., p. 336, ch. 165, § 1.

<sup>1</sup> Article 1524a.

Emergency. Effective May 13, 1949.

## TITLE 20—BOARD OF CONTROL

### CHAPTER THREE—PURCHASING DIVISION

Art.  
634(B). School busses [New].

#### Art. 634. Departmental supplies

Commissioners courts, purchasing road machinery and equipment, tires and tubes through Board of Control, see art. 2351d.

#### Art. 634(B). School busses

All motor vehicles used for transporting school children, including buses, bus chassis, and bus bodies, tires and tubes, purchased for or by any school district participating in the Foundation School Program, shall be purchased by and through the Board of Control. Passenger cars shall not be included in the above classifications. And no school district nor its officers or employees nor the County School Board shall have the power to purchase for such school district any of such items except in those instances wherein an emergency requires an immediate purchase thereof, to be reported to and approved by the Board of Control.

Such motor vehicles, including buses, bus chassis, bus bodies, tires and tubes, shall be purchased on competitive bids under such rules and regulations as may be made by the Board of Control. Such purchases shall be made on requisition of a County School Board or a school district. Requisitions, if for the purchase of motor vehicles, buses, bus bodies, or bus chassis, must be presented to and receive the approval of the County School Board and the State Commissioner of Education. Requisitions for the purchase of tires and tubes must be presented to and approved by either the County School Board or the County Superintendent. If, due to climatic and/or road conditions, special equipment is required to guarantee adequate safety and comfort of school children, the school district shall state and describe such requirements in its requisition and the Board of Control shall be required to purchase such equipment that said Board determines is adapted or designed for such conditions or requirements.

Any such buses, owned by any county or school district, which are to be sold, traded in, or otherwise disposed of, must be disposed of either by the Board of Control, or by the County School Board or the school district under such rules and regulations as the Board of Control may provide, and the sale price or trade-in value of any such buses shall be considered in determining eligibility for transportation grants.

Compliance with this Section shall be a condition precedent to participation in the Foundation School Fund, and any school district failing or refusing to comply with the terms and conditions of this Section shall be ineligible to share in the Foundation School Fund for one year from the date of such failure or refusal or such violation of the terms hereof.

This Section shall not require the purchase of buses, bodies, chassis, tires, or tubes through the Board of Control, where the funds therefor are provided by gifts, profits from athletic contests or other such school enterprises in no way supported by tax funds or grants or appropriations from any governmental agency, either State or Federal.

Any such school district making requisitions for purchase of any of the above named articles shall, when sending in the requisition

therefor, include therewith a general description of the article desired and shall certify the funds that will be available to pay therefor.

Any school district financially unable to comply with the foregoing requirement to make immediate payment for any motor vehicles, including buses, bus bodies or bus chassis, purchased by it may, subject to the provisions hereunder, issue interest-bearing time warrants in amounts sufficient to make such purchase, any law to the contrary notwithstanding. Such warrants shall mature in serial installments not more than five (5) years from the dates of issue, and shall bear interest at a rate of not to exceed six (6%) per cent per annum. Such warrants shall upon maturity be payable out of any available funds of such school district in the order of their maturity dates. Full records of all warrants issued and sold shall be kept by the district and reported to the Board of Control. Such warrants may be issued and sold at not less than their face value, and the proceeds thereof used to provide the funds required for such purchase as herein provided. Such warrants shall be entitled to first and prior payment out of any available funds of such district as they become due.

The Board of Control shall have the power to make rules or adopt regulations to effectuate the purpose of this Act.<sup>1</sup> Added Acts 1949, 51st Leg., p. 625, ch. 334, art. V, § 3.

<sup>1</sup> This article and art. 2922—11 et seq.

Emergency. Effective June 8, 1949.

Articles I—V, §§ 1, 2, 4; articles VI to XII are published as arts. 2922—11 to 2922—22.

#### **Art. 655. Invoice; affidavit or certificate**

The contractor or seller shall in all cases append an affidavit stating that the invoice is correct and that it corresponds in every particular with the supplies and/or services contracted for; except where the supplies and/or services contracted for amount to Ten (\$10.00) Dollars or less, the affidavit of the contractor or seller may be dispensed with, and in lieu thereof the contractor or seller shall certify that the invoice is correct and that it corresponds in every particular with the supplies and/or services contracted for. As amended Acts 1949, 51st Leg., p. 825, ch. 444, § 1.

Emergency. Effective June 19, 1949.

#### **Art. 657. Invoice; check of goods or services**

As soon as supplies are received by a State Agency they shall be inspected by the storekeeper or person duly authorized to receive supplies, and if such supplies correspond in every particular with those covered by the contract under which they were purchased and if the invoice is correct, he shall certify that such is true and transmit to the Board of Control the original invoice and duplicate. As soon as an invoice is received for services rendered to any State Agency, if the storekeeper or person duly authorized to check such services finds that such services correspond in every particular with those services contracted for and that the invoice is correct, then he shall certify that such is true and transmit to the State Board of Control the original invoice and duplicate. If the Board of Control finds such invoice to be correct, it shall approve and transmit same to the State Comptroller. As amended Acts 1949, 51st Leg., p. 826, ch. 445, § 1.

Emergency. Effective June 19, 1949.

## CHAPTER FOUR—PUBLIC BUILDINGS AND GROUNDS DIVISION

Art.

666—2. Destruction and removal of personal property deemed valueless and not salable [New].

## Art. 666. Sale of personal property of State when unfit or not needed

All personal property belonging to the State, regardless of where it is located, under the control of any State Agency, with the exception of State Eleemosynary Institutions, Colleges, Institutions of Higher Learning and the Texas Prison System, when it has become unfit for use, or be no longer needed, shall be placed under the jurisdiction of the State Board of Control, and the State Board of Control may sell such property after advertising it no less than four (4) days in a newspaper in the county wherein the property is located. Provided, however, that if no newspaper is published in the county wherein the property is located, notice of sale, setting out the time and place of sale and the property to be sold, shall be posted in three (3) public places, one being in the court house in the county wherein the property is located. Provided, however, that if the estimated value of such personal property is less than One Hundred (\$100.00) Dollars and not sufficient to justify the cost of advertisement in newspapers as outlined above, the State Board of Control may sell such property in any manner that it deems for the best interest of the State. The money derived from the sale of such property, less the expenses of advertising the sale, shall be deposited in the State Treasury, to the credit of the appropriation of the State Agency which transferred such property to the State Board of Control for disposition. The credit to the appropriation of such State Agency shall be made to the appropriation for such State Agency from which such property could be purchased.

The State Board of Control shall make a written report to the Comptroller after each sale. The report shall include the following items:

- (1) Name of the newspaper and the dates of advertisement of notice of sale; or if posted, the date and place of posting;
- (2) Each article received;
- (3) The price for which each article was sold;
- (4) The name and address of the person to whom each article was sold.

This report shall be signed by the State Board of Control and a member of the State Agency having control of the property before sale. As amended Acts 1949, 51st Leg., p. 827, ch. 447, § 1.

Emergency. Effective June 19, 1949.

## Art. 666—1. Transfer of personal property unfit or not needed to state institution or agency

Any property which has become unfit for use, or no longer needed, when placed under the jurisdiction of the State Board of Control by any State Agency, including State Eleemosynary Institutions, Colleges, Institutions of Higher Learning and the Texas Prison System, may be transferred by the State Board of Control to any institution or State Agency in need of same, and the proper debit and credit shall be made on the basis that such property can be purchased in the market at the time of the transfer, if a market exists, and if not, at its actual or intrinsic value as set by the State Board of Control. The State Comptroller shall, upon information furnished by the State Board of Control,

debit the appropriation of the State Agency receiving such transferred property, from which such property could have been purchased, and credit the appropriation, from which such property could have been purchased, to the State Agency that transferred such property to the State Board of Control; provided, however, that the provisions of this section shall not apply to property acquired from the Federal Government and transferred from one Eleemosynary Institution to another and the sale of supplies manufactured by the Texas Prison System; and provided further, that any State Agency may offer such property which has become unfit for use or no longer needed as a trade-in on new property of the same type when such exchange is for the best interest of the State. As amended Acts 1949, 51st Leg., p. 827, ch. 447, § 2.

Emergency. Effective June 19, 1949.

**Art. 666—2. Destruction and removal of personal property deemed valueless and not salable**

When personal property is transferred to the State Board of Control by any State Agency and the State Board of Control is unable to sell or transfer same, and finds that such personal property is valueless and cannot be sold, the State Board of Control may issue written permission to the State Agency owning such property to destroy and remove same from its inventory. A copy of such authorization for destruction shall be sent to the State Comptroller. When such property is destroyed by such State Agency, a written report giving a description of same shall be sent to the State Comptroller. Acts 1949, 51st Leg., p. 829, ch. 448, § 3.

Emergency. Effective June 19, 1949.

**Art. 677. Repealed. Acts 1949, 51st Leg., p. 320, ch. 153, § 2, Eff. May 13, 1949.**

Control and custody of state parks and historical parks transferred to State Parks Board, see art. 6067a.

**CHAPTER FIVE—DIVISION OF DESIGN AND CONSTRUCTION**

**Art. 681. Shall design public buildings**

The State Board of Control, through its chief of such division, shall design all public buildings erected at the expense of the state where designing is not otherwise provided by law or by its appropriation bill; but in no instance shall plans or designs be adopted by the head of any department, board, institution, or school, other than the state educational institutions of higher learning and the Texas Prison System, and the Texas State Board for hospitals and special schools, unless such design and plans have been approved by the Board. As amended Acts 1949, 51st Leg., p. 606, ch. 323, § 1.

Emergency. Effective June 7, 1949.

**CHAPTER SIX—DIVISION OF ESTIMATES AND APPROPRIATIONS**

**Art. 689a—1. Governor as chief budget officer**

Legislative Budget Board, see art. 5429c.

**CHAPTER SEVEN—DIVISION OF ELEEMOSYNARY INSTITUTIONS****Art. 694. Requisitions by the Board**

All money appropriated by the Legislature for the erection of buildings or the making of improvements upon the grounds of an institution shall be subject to requisition by the Board of Control for the amount actually necessary to pay for such building or improvements; but no money shall be paid except it be upon estimate of completed work furnished by the contractor and approved by the architect. In no case shall more than ninety (90%) percent of the actual cost of building or improvements be paid until the work is completed and accepted. As amended Acts 1949, 51st Leg., p. 6, ch. 6, § 1.

Emergency. Effective March 3, 1949.



**TITLE 20A—BOARD AND DEPARTMENT OF PUBLIC WELFARE****Art. 695c. Public Welfare Act; Definitions****Child caring institutions**

Sec. 8(a). As used in this Act, the following terms, words, and provisions shall be construed as defined and set forth herein.

**1. Definitions.**

(a) **Child-Caring Institution.** A child-caring institution is defined as any children's home, orphanage, institution or other place maintained or conducted, without profit, by any person, public or private association, or corporation, engaged in receiving and caring for dependent, neglected, handicapped, or delinquent children, or children in danger of becoming delinquent, or other children in need of group care, and which gives twenty-four (24) hours a day care to more than six (6) children.

(b) **Commercial Child-Caring Institution.** A commercial child-caring institution is defined as any children's home, orphanage, institution or other place maintained or conducted, for profit by any person, public or private association, or corporation, engaged in receiving and caring for dependent, neglected, handicapped, or delinquent children, or children in danger of becoming delinquent, or other children in need of group care, and which gives twenty-four (24) hours a day care to more than six (6) children.

(c) **Day Care Center.** A day care center is any place maintained or conducted under public or private auspices, without profit, which cares for more than six (6) children during a part of the twenty-four (24) hours of the day.

(d) **Commercial Day Care Center.** A commercial day care center is any place maintained or conducted, for profit, under public or private auspices which cares for more than six (6) children during a part of the twenty-four (24) hours of the day.

(e) **Commercial Boarding Home.** A commercial boarding home is a private home or place of residence of any person or persons, which operates for profit, where six (6) or less children under sixteen (16) years of age are received for care and custody or maintenance, apart from their own family or relatives, for either part of the day or for twenty-four (24) hour-a-day care.

(f) **Child-Placing Agency.** A child-placing agency is hereby defined to mean any person, public or private association, or corporation, which assumes care, custody or control of one or more children under sixteen (16) years of age, and which plans for the placement of, or places, any child or children in any institution, foster or adoptive home, provided that natural parents of any such child or children are excluded from this definition.

**Child-Placing Activity.** Any person who arranges for the placement with a third party of a child not related to him, or aids or abets in such placement, shall be deemed to be engaged in a child-placing activity.

(g) **Agency Boarding Home.** An agency boarding home is a private home, caring for six (6) or less children, used only by a licensed child-placing agency, which agency has determined and has certified to the State Department of Public Welfare that such home meets minimum rules and regulations promulgated by the State Department of Public Welfare, and which agency shall provide supervision both for the boarding home and each child so placed therein.

(h) Convalescent Children's Boarding Home. A convalescent children's boarding home is any place under public or private auspices which gives twenty-four (24) hour-a-day care to six (6) or less children, who are physically handicapped, under medical and/or social supervision, away from their own homes, and not within a hospital.

(i) Convalescent Children's Foster Group Home. A convalescent children's foster group home is any place under public or private auspices which gives twenty-four (24) hour-a-day care to more than six (6) children, who are physically handicapped, under medical and/or social supervision, away from their own homes, and not within a hospital.

(j) Solicitation of Funds. Solicitation of funds herein means the acts of any person, association, or corporation in soliciting or collecting any contributions in money or other property by appeals through mail, or by other direct or indirect public solicitation, for the purpose of operating any institution, agency, or facility coming within the purview of this Act.

## 2. Provisions for License to Operate.

(a) Child-Caring Facility. Every person, association, institution, or corporation, whether operating for profit or without profit, who shall conduct or manage a child-caring institution, agency, or facility coming within the purview of this Act shall obtain a license to operate from the State Department of Public Welfare, which license shall be in full force and effect until suspended or rescinded by the Department of Public Welfare as hereinafter provided.

(b) Child-Placing Facility. Every person, association, institution, or corporation, whether operating for profit or without profit, who shall conduct or manage a child-placing agency, who shall place any child or children who are under the age of sixteen (16) years, whether occasionally or otherwise, away from his own home or relative's home, shall obtain from the State Department of Public Welfare a license to operate as a child-placing agency, which license shall be in full force and effect until suspended or revoked by the Department of Public Welfare as hereinafter provided, except that nothing in this Act shall prohibit a natural parent from placing his own child or prohibit a grandparent, uncle, aunt, legal guardian, brother or sister, having attained their majority, from placing a child under the age of sixteen (16) years in the home of relatives or in a licensed institution, agency, or facility coming within the purview of this Act.

(c) Adoption. Every person, association or corporation, whether operating for profit or without profit, other than a natural parent, who shall place any child or children under the age of sixteen (16) years for adoption, whether occasionally or otherwise, shall obtain a license to operate in child-placing from the State Department of Public Welfare, which license shall be in full force and effect until suspended or rescinded by the State Department of Public Welfare as hereinafter provided.

(d) Free Choice of Agency. It is not the intent of this Act to deprive any person or persons of the right and privilege, except in instances where that right or privilege has been removed by court action, of choosing the licensed agency through which the child or children shall be placed for care or adoption whether the agency be private, public, or the State Department of Public Welfare; nor is it the intent of this Act to deprive any person or persons of the right and privilege of commencing and maintaining appropriate proceedings in a court of proper jurisdiction for custody or adoption of such child or children.

The State Department of Public Welfare shall maintain a complete list, or directory, of licensed child-caring and child-placing institutions

and agencies, a copy of which shall be furnished any citizen of Texas upon request.

(e) Fees. (1) Child-placing agencies, in cases either of placement for adoption or of placement for care and custody, shall be prohibited from charging a fee for placement, consultation or other services either from the parent or other person responsible for the child involved, or from the foster parents receiving the child; except that the natural parents or legal guardian may pay such agency a reasonable amount for the board of such child in accordance with rules and regulations prescribed by the State Department of Public Welfare as hereinafter provided. (2) License to operate, for each type of facility as herein defined, shall be issued without fee, and under such reasonable and uniform rules and regulations as the State Department of Public Welfare shall prescribe as hereinafter provided; and the type of facility for which a license is issued shall be indicated on such license.

(f) Agency Boarding Home. When a person, association, institution, agency, or corporation is licensed to conduct or manage a child-placing agency, the boarding homes used by such agency for the care and custody of children who are under the agency's supervision are considered 'agency boarding homes' and are not to be licensed separately by the State Department of Public Welfare, provided such agency boarding homes are designated as such in writing by such child-placing agency, with a copy of such written designation being sent to the State Department of Public Welfare; and provided further, that the State Department of Public Welfare is authorized to visit any such agency boarding home with a view of ascertaining whether the children cared for in such home are being properly cared for and properly supervised by such licensed child-placing agency. Agency boarding homes shall meet minimum uniform standards as prescribed by the State Department of Public Welfare as hereinafter provided, and any child-placing agency which uses homes falling below such standards shall be subject to suspension or revocation of its child-placing license as hereinafter provided.

### 3. Solicitation of Funds.

Licenses for solicitation of funds shall be issued to child-caring and child-placing facilities, under rules and regulations promulgated by the State Department of Public Welfare under processes hereinafter provided, and in keeping with the following provisions:

(a) Existing Facility. If funds are solicited for any institution, agency, or facility coming within the purview of this Act, a special license for solicitation, separate from the license to operate, must be obtained from the State Department of Public Welfare and, in addition, no solicitation of funds for institutions and agencies coming under the purview of this Act is to be undertaken in any county without the approval of the County Judge of such county, which County Judge shall authorize solicitation only for persons, associations or corporations licensed by the State Department of Public Welfare to solicit funds; provided that:

(1) Any such organization, agency, association, institution, or corporation whose operation is state-wide in scope may be granted a special license by the State Department of Public Welfare to solicit funds on a state-wide basis without approval of the County Judge of the respective counties; except that each agent or solicitor representing any such licensed facility, who solicits on the street, or from house to house, or from place of business to place of business, or from person to person as encountered by chance in the course of such movements, shall obtain a license to solicit, shall carry his license with him, and shall display said license to solicit each time he makes a solicitation, which license must

bear the approval of the County Judge of the county in which the solicitation is made.

(2) Any such organization, agency, association, institution, or corporation whose operation is less than state-wide in scope, may be granted a special license to solicit funds in the county, group of counties, or region of the State, which it serves without the necessity of securing approval of the County Judge of the respective counties; except that each agent or solicitor, representing any such licensed facility, who solicits on the street, or from house to house, or from place of business to place of business, or from person to person as encountered by chance in the course of such movements, shall obtain a license to solicit, shall carry his license with him, and shall display said license to solicit each time he makes a solicitation, which license must bear the approval of the County Judge of the county in which the solicitation is made.

(3) Nothing in this Act shall be construed to prohibit a religious or fraternal-order institution, agency, or facility coming within the purview of this Act, which is licensed by the State Department of Public Welfare and which is incorporated under the laws of the State of Texas as a non-profit facility and whose trustees or members of its corporate governing board are elected by, or are responsible to, a recognized fraternal order, church, or religious denomination or body, whose membership is state-wide, from soliciting funds; except that each agent or solicitor, representing any such licensed facility, who solicits on the street, or from house to house, or from place of business to place of business, or from person to person as encountered by chance in the course of such movements, shall obtain a license to solicit, shall carry his license with him, and shall display said license to solicit each time he makes a solicitation, which license must bear the approval of the County Judge of the County in which the solicitation is made.

(a) Nothing in this Act should be construed to prohibit the officers, committees, or members of a recognized fraternal order or one of its local lodges, state-wide church, or one of its local congregations, religious body, or one of its local bodies from soliciting in behalf of their respective facility or facilities coming within the purview of this Act.

(4) Nothing in this Act shall be interpreted to interfere with the activities of civic, business or professional clubs in the operation of their civic or charitable functions, unless said club or organization actually engages in the operation of child-caring and child-placing facilities coming within the purview of this Act.

(b) Proposed New Facility. A person, association, agency, institution, or corporation, before soliciting funds for the establishment of a proposed new institution, agency, or facility coming within the purview of this Act must secure a license in order to solicit funds, which license is to be issued on the basis of a written contract between the State Department of Public Welfare and such person, association, agency, institution, or corporation, and as approved by the Attorney General of the State of Texas, which contract shall provide that a minimum amount of funds must be secured and held in escrow until the project is actually undertaken; provided that such contract shall not include any provisions for meeting any standards higher than, nor complying with any rules and regulations other than, those in effect for existing licensed facilities coming within the purview of this Act at the time said contract is entered into.

#### 4. Authority to Inspect or Visit.

The State Department of Public Welfare shall have the authority to visit and inspect all such facilities embraced within this Act, whether

licensed or unlicensed, at all reasonable times, to ascertain if same are being conducted in conformity with the law or if any conditions exist which need correction.

#### **5. Records.**

(a) Every person, agency, association, institution or corporation coming within the purview of this Act, shall maintain such reasonable individual social records and individual health records; except day care centers, commercial day care centers, commercial boarding homes, agency boarding homes, and convalescent children's boarding homes, as defined in this Act, as are promulgated under the process hereinafter provided and said records shall be open for inspection by the State Department of Public Welfare at all reasonable times.

(b) Every person, agency, association, institution or corporation coming within the purview of this Act, except day-care centers, commercial day-care centers, commercial boarding homes, agency boarding homes, and convalescent children's boarding homes, as defined in subsection 1 (c), 1 (d), 1 (e), 1 (g), and 1 (h) of Section 1 of this Act, shall maintain statistical records and complete financial records of income and disbursements, and shall have its books audited annually by a licensed public accountant and shall submit, annually, a copy of such auditor's statement concerning receipts and disbursements to the Executive Director of the State Department of Public Welfare, or he may accept the financial report made to the fraternal order, church, religious or denominational body which owns or controls such licensed facility, or which is published in its official organ, handbook, or minutes in lieu of the said auditor's statement. It is further provided that every person, agency, association, institution or corporation coming within the purview of this Act, upon the written request of the Attorney General of the State of Texas, shall open its books for inspection by the Attorney General, to ascertain the honesty and legitimacy of its operation.

#### **6. Children Improperly Cared For.**

Whenever the State Department of Public Welfare has reason to believe that any person, association or corporation having the care or custody of a child subjects such child to mistreatment or neglect, or immoral surroundings, it shall cause a complaint or petition to be filed in the proper court, and said Department may be represented by the Attorney General of the State of Texas in such a proceeding.

#### **7. Denial, Suspension and Revocation of License.**

(a) The State Department of Public Welfare is authorized to deny a license to a person or to an unincorporated or incorporated institution, agency, or association coming within the purview of this Act, if it or he is organized so loosely, poorly, and intangibly, or if it or he operates by such methods that said State Department reasonably concludes that the manner of organization and/or operation admits of probability of fraud being perpetrated. Appeal may be made for a hearing as provided elsewhere in this Act.

(b) The State Department of Public Welfare is authorized to suspend or revoke any license if it ascertains failure to comply with the law or with the reasonable rules and regulations provided for herein; provided that the following procedure is followed: (1) The State Department of Public Welfare, in writing, shall call to the attention of the licensee the particulars in which he fails to comply and shall specify a reasonable time by which it is probable that the licensee can remedy said failure; then, (2) if failure to comply persists, said Department shall give written notice

of intention to suspend or revoke said license thirty (30) days thereafter if no appeal for a hearing is made by the licensee; (3) if, within said thirty (30) days, licensee files with the State Department of Public Welfare written request for a hearing, the matter then shall be referred to the Advisory Board, which shall conduct a hearing and render a written opinion, as elsewhere provided for in this Act; and (4) after receiving a copy of said opinion, the State Department of Public Welfare may proceed to suspend or revoke the license in question.

#### 8. Advisory Board.

(a) In the event that any person, association, agency, corporation, or facility coming within the purview of this Act is denied a license to operate or solicit funds or said license to operate or to solicit funds has been suspended or revoked, said person, association, corporation, agency or facility shall have the right to appeal within a reasonable time, and upon filing written notice of appeal, said appellant shall be granted a reasonable notice and opportunity for a fair hearing before the Advisory Board created in this Act.

Within a reasonable time prior to the appellant's appeal hearing, he, or his authorized agent, shall be fully advised of the information contained in his record on which action was based if a request for such information is made in writing, and no evidence of which the appellant is not informed shall be considered by the Advisory Board or the State Department of Public Welfare as the basis for the decision after the hearing.

(b) The Advisory Board provided for herein shall consist of five (5) members appointed by the State Board of Public Welfare. The members shall be appointed at least thirty (30) days prior to the date set for the hearing and shall be comprised of the Executive Officers of institutions coming within the same classification as the appellant, provided that not more than one (1) member shall be appointed from any one (1) institution. When the Advisory Board is appointed, the Board shall immediately select its chairman and the chairman of the Board shall notify the appellant in writing of the date and place of the hearing, said hearing to be set within a period of not more than forty-five (45) days after the Advisory Board is notified of its appointment. Members of the Advisory Board shall serve on the Board without salary, but each member attending the appeal hearing shall be paid Ten Dollars (\$10) per day for expenses, for each day in session, said payments being made by the State Department of Public Welfare out of its funds. The Advisory Board meeting shall be held in Austin or in the immediate vicinity of the appellant's residence.

(c) At the hearing all of the evidence shall be recorded verbatim, and a copy of the transcript shall be made available to the appellant and the State Department of Public Welfare, in accordance with rules and regulations promulgated by the Department of Public Welfare.

The Advisory Board shall make written opinions and recommendations to the State Department of Public Welfare within a period of ten (10) days after the hearing is closed and failure to make the report within the time prescribed may be considered by the State Board of Public Welfare as sufficient justification for the appointment of a new Advisory Board. These opinions and recommendations shall be advisory only, and shall not be binding upon the State Department of Public Welfare.

(d) Nothing in this Article 8 concerning Advisory Boards shall be interpreted to prevent any party involved from due recourse to the courts,

and in case of flagrant violation of this Act which endangers either the health or welfare of the children in the institution or facility, the person, association, corporation, agency or facility may be temporarily enjoined from operation during the pendency of the appeal.

#### **9. Promulgations of Rules and Regulations.**

"It is the expressed intent of this Act that the State Department of Public Welfare shall be given the right and the authority to promulgate reasonable rules and regulations governing the granting of licenses to the institutions and facilities coming within the purview of this Act, and for the suspension or revocation of such license for the operation of such institutions and facilities named in this Act, or for the solicitation of funds for the maintenance of such institutions and facilities; said rules and regulations shall be reasonable, and shall be uniform in nature. A copy of the rules governing the granting, suspension, or revocation of the licenses to operate or to solicit funds, which are currently used by the State Department of Public Welfare, shall be furnished to each person, organization, agency or facility contemplated in this Act and if the State Department of Public Welfare makes changes or revisions in said rules and regulations, copies of the proposed changes shall be sent to each person, association, corporation, agency or facility coming within the purview of this Act at least sixty (60) days prior to the effective date of the proposed changes or revisions in order to enable those persons, associations, corporations, or agencies affected an opportunity to review the proposed changes and make written recommendations or suggestions concerning them, if desirable.

#### **10. State Institutions Exempt.**

Child-caring and child-placing institutions and agencies, which are owned and operated by the State of Texas, are exempt from the licensing and regulatory provisions of this Act; except that this provision shall not prevent the State Department of Public Welfare, or the Board which controls a state-owned child-caring or child-placing institution or agency, from requesting the State Department of Public Welfare, or an Advisory Board composed of the Executives of licensed institutions, to give counsel, to be expressed in a written opinion, on any matter which might contribute to the efficiency of said institution or agency, and hence might be in the public interest.

#### **11. Injunction.**

Any person, association, or corporation, for cause, may be enjoined from soliciting for, or conducting, or managing any institution, agency, or facility coming within the purview of this Act through suit brought by the Attorney General of the State of Texas, or by the county attorney or district attorney, in the county where such illegal practices occur.

#### **12. Misdemeanor.**

It shall be misdemeanor for any person to impersonate an official, employee, representative, agent, or solicitor of any licensed institution or agency coming under the purview of this Act; and it shall be a misdemeanor for any person falsely to represent himself as representing any such licensee; and it shall be a misdemeanor for any unauthorized person to solicit funds in the name of, or for, any such licensee; and upon conviction in any justice, county, municipal, or district court of Texas, a person guilty of any such misdemeanor may be fined not to exceed One Hundred Dollars (\$100) and/or imprisoned in county or municipal jail

for not over one (1) year, for each such separate act. Added Acts 1949, 51st Leg., p. 743, ch. 402, § 1.

Emergency. Effective June 14, 1949.

Section 2 of the Act of 1949 repealed all conflicting laws and parts of laws.

Section 3 provided: "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 de-

clares it would have passed such remaining portions despite such invalidity."

Allocation and appropriations to Old Age Assistance Fund, see article 7083a.

Limitation on monthly expenditures for old age assistance, see article 7083a.

Malt liquors, license fee for manufacture and sale, of, payment into Texas Old Age Assistance Fund, see Vernon's Ann.P.C., art. 667-5.



## TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.

### CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS

Art.

717f. Validation of election revoking authority to issue bonds [New].

Fire fighting equipment, bonds for, see art. 2351a—4.

**Art. 708b—1. Bond proceeds not usable because of labor and material shortages; investment in United States obligations**

Any political subdivision of the State of Texas which heretofore has issued and sold bonds and is unable to obtain labor and materials to carry out the purposes for which the bonds were issued may invest the proceeds of such bonds now on hand in government bonds or other obligations of the United States of America; provided, however, that whenever conditions shall permit such political subdivisions to acquire the necessary labor and materials the obligations of the United States in which said proceeds are invested shall be sold or redeemed and the proceeds of said obligations shall be used for the purposes for which the bonds of any such political subdivision were authorized. As amended Acts 1949, 51st Leg., p. 710, ch. 373, § 1.

Emergency. Effective June 13, 1949.

**Art. 717f. Validation of election revoking authority to issue bonds**

**Section 1.** All elections ordered by the Commissioners Courts of any and all counties for the purpose of revoking or cancelling the authority of such Courts to issue bonds (which bonds had been previously authorized at an election wherein a majority of the qualified property-taxpaying voters who had duly rendered the same for taxation voting at such election voted in favor of such bonds, but which bonds have not been issued) and in which election or elections a majority of the qualified property-taxpaying voters who had duly rendered the same for taxation voting at such election or elections voted in favor of such revocation or cancellation, are hereby in all things validated.

**Sec. 2.** Any and all acts of the Commissioners Courts and other county officials in levying and collecting taxes in anticipation of the issuance of any such bonds, the authority of the Commissioners Courts to issue such bonds having been so revoked or cancelled subsequent to such levy, are hereby in all things validated, and such taxes shall be placed in the constitutional fund out of which such taxes were levied and collected. Acts 1949, 51st Leg., p. 181, ch. 98.

Emergency. Effective April 30, 1949.

**Title of Act:**

An Act to validate elections ordered by the Commissioners Courts for the purpose of revoking or cancelling the authority to issue bonds; validating the levy and col-

lection of taxes in anticipation of the issuance of such bonds and providing for the disposition of such taxes; and declaring an emergency. Acts 1949, 51st Leg., p. 181, ch. 98.

## CHAPTER SEVEN—MUNICIPAL BONDS

Art.	Art.
835h. Bonds for improvement of parking lots [New].	835j. Revenue bonds for air conditioning equipment in municipal auditorium or theatre [New].
835i. Bonds for fire truck and fire equipment; validation [New].	835k. Bonds for municipal garage or park band shell validated [New].

### Art. 835h. Bonds for improvement of parking lots

#### Bonds authorized; pledge of revenues

Section 1. The governing body of any city in this State having less than sixty thousand (60,000) population which is operating under a home rule charter and which city on January 1, 1949, owned and was operating a public parking lot or lots is hereby authorized to issue negotiable revenue bonds of the city for the purpose of constructing, building, or erecting buildings and other permanent improvements on said public parking lot or lots then being used for the public parking or storage of motor vehicles, such negotiable revenue bonds to be secured solely by a pledge of, and payable from, the net revenues derived from the operation of said parking lot or lots and the buildings and other permanent improvements thereon. "Net revenues" is defined as the gross revenues minus all operation and maintenance expenses. No such bonds shall ever be considered as a debt of the city, but solely a charge upon the pledged revenues, and such bonds shall never be reckoned in determining the power of the city to incur obligations payable from taxation. Such bonds shall contain on the face thereof the following provision:

"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."

#### Issuance, maturity and interest; election; incontestability

Sec. 2. Such bonds shall be payable serially in not more than forty (40) years from date and shall bear interest at not more than five per cent (5%) per annum. Such bonds shall be signed by the Mayor and countersigned by the City Secretary; provided, however, that the facsimile signatures of such officers may be printed or lithographed on the interest coupons attached thereto. Such bonds shall be sold for not less than par and accrued interest. Such bonds may be issued without the necessity of any election therefor; provided, however, that the governing body, if it so determines, may order an election to determine whether a majority of the legally qualified property taxpaying voters who have taxable property and who have duly rendered the same for taxation voting therein desire the issuance of such bonds, such election to be held in accordance with the provisions of Chapter One, Title 22, Revised Civil Statutes of Texas. Any bonds issued under this Act shall be incontestable after issuance and delivery except for fraud and forgery. It shall not be necessary to submit any of such bonds or proceedings to the Attorney General, and the Attorney General shall have no power or authority to examine and approve or disapprove the same.

#### Personnel; fees and tolls

Sec. 3. Such city is authorized to employ necessary personnel to operate the parking facilities authorized by this Act, and is authorized to prescribe and enforce the fees and tolls which are to be charged for the use of such parking lot or lots and buildings and other improve-

ments thereon. The expense of operation and maintenance thereof shall always be a first lien and charge against the income thereof. So long as any of said bonds or any interest thereon remain outstanding, the city shall charge or require payment of fees and tolls which shall be equal and uniform within classes defined by the governing body of such city, and which shall be sufficient to pay expenses of operation and maintenance and to pay the principal of and interest on the outstanding bonds as such principal matures and as such interest accrues, and to establish and maintain such reserve or reserves, if any, as may be prescribed in the ordinance authorizing the bonds.

#### Additional bonds

Sec. 4. So long as any such revenue bonds are outstanding, no additional bonds of equal dignity shall be issued against the pledged revenues, except to the extent and in the manner expressly permitted in the ordinance authorizing the bonds.

#### Exemption from taxation

Sec. 5. Any bond 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.

#### Partial invalidity

Sec. 6. In case any one or more of the Sections or provisions of this Act shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other Sections or provisions of this Act. Acts 1949, 51st Leg., p. 385, ch. 205.

Emergency. Effective May 14, 1949.

### Art. 835i. Bonds for fire truck and fire equipment; validation

Section 1. All bonds heretofore voted and authorized by any city for the purpose of purchasing a fire truck and fire equipment, including all proceedings and the authorization and issuance thereof are hereby validated, ratified, approved, and confirmed notwithstanding the lack of charter or statutory power of such city or the governing body thereof to authorize and issue such bonds; and such bonds when approved by the Attorney General of the State of Texas, and sold and delivered for not less than par and accrued interest, shall be binding, legal, valid, and enforceable obligations of such cities.

Sec. 2. Provided, however, that the provisions of this Act shall not be construed as validating any such proceedings or bonds issued pursuant thereto, the validity of which has been contested or attacked in any suit or litigation pending at the time this Act becomes effective. Acts 1949, 51st Leg., p. 444, ch. 238.

Emergency. Effective May 21, 1949.

#### Title of Act:

An Act validating, ratifying, approving and confirming certain proceedings and bonds heretofore had or authorized by cities for purchasing fire trucks and equip-

ment; providing that this Act shall not apply to any proceedings or bonds the validity of which has been contested in any pending suit or litigation; and declaring an emergency. Acts 1949, 51st Leg., p. 444, ch. 238.

### Art. 835j. Revenue bonds for air conditioning equipment in municipal auditorium or theatre

#### Authority to issue; payable from revenue

Section 1. The governing body of any city in this State which has a population of not less than one hundred and seventy-five thousand (175,000) inhabitants according to the last preceding United States Census

is hereby authorized to issue negotiable revenue bonds of the city for the purpose of acquiring, purchasing and installing air conditioning equipment in and for the municipal auditorium and/or municipal theatre owned and operated by said city, such negotiable revenue bonds to be secured solely by a pledge of, and payable from, the net revenues derived from the operation of said municipal auditorium and/or municipal theatre. "Net revenues" is defined as the gross revenues minus all operation and maintenance expenses. No such bonds shall ever be considered as a debt of the city, but solely a charge upon the pledged revenues, and such bonds shall never be reckoned in determining the power of the city to incur obligations payable from taxation. Such bonds shall contain on the face thereof the following provision:

"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."

**Term; interest; signatures; elections; approval and registration**

Sec. 2. Such bonds shall be payable serially in not more than forty (40) years from date and shall bear interest at not more than five per cent (5%) per annum. Such bonds shall be signed by the Mayor and countersigned by the City Secretary; provided, however, that the facsimile signatures of such officers may be printed or lithographed on the interest coupons attached thereto. Such bonds may be issued without the necessity of any election therefor; provided, however, that the governing body, if it so determines, may order an election to determine whether a majority of the legally qualified property taxpaying voters who have taxable property and who have duly rendered the same for taxation voting therein desire the issuance of such bonds, such election to be held in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas. Such bonds may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by cities or towns. In such case, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds. Any bonds issued under this Act shall be incontestable after issuance and delivery except for fraud, forgery, or unconstitutionality.

**Operation and maintenance; fees, tolls and charges**

Sec. 3. Such city is authorized to employ necessary personnel to operate such municipal auditorium and/or theatre, and to properly maintain and keep the same in proper repair, the costs of which shall be classed as operation and maintenance expenses. Such operation and maintenance expenses shall always be a first lien and charge against the income thereof. So long as any of said bonds or any interest thereon remain outstanding, the city shall charge or require payment of fees, tolls and charges for the use of such auditorium and/or theatre and their facilities which shall be equal and uniform within classes defined by the governing body of such city, and which shall be sufficient to pay all expenses of operation and maintenance and to pay the principal of and interest on the outstanding bonds as such principal matures and as such interest accrues, and to establish and maintain such reserve or reserves, if any, as may be prescribed in the ordinance authorizing the bonds.

**Additional bonds**

Sec. 4. So long as any such revenue bonds are outstanding, no additional bonds of equal dignity shall be issued against the pledged revenues, except to the extent and in the manner expressly permitted in the ordinance authorizing the bonds.

**Exemption from taxation**

Sec. 5. Any bond 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.

**Partial invalidity**

Sec. 6. If any word, phrase, clause, sentence, paragraph, Section or part of this Act shall for any reason be held to be unconstitutional, it shall not affect any other word, phrase, clause, sentence, paragraph, Section or part of this Act. Acts 1949, 51st Leg., p. 936, ch. 510.

Emergency. Effective June 29, 1949.

**Art. 835k. Bonds for municipal garage or park band shell validated**

Section 1. All bonds heretofore voted and authorized by any city for the purpose of constructing and equipping of a municipal garage and for the purpose of constructing a municipal public park band shell, either or both, including all proceedings and the authorization and issuance thereof, are hereby validated, ratified, approved, and confirmed notwithstanding any lack of charter or statutory power of such city or the governing body thereof to authorize and issue such bonds and notwithstanding that the election may not in all respects have been ordered and held in accordance with statutory provisions; and such bonds when approved by the Attorney General of the State of Texas, and sold and delivered for not less than par and accrued interest, shall be binding, legal, valid, and enforceable obligations of such cities. Provided, however, that this Act shall apply only to such bonds which were authorized at an election or elections wherein a majority of the qualified property taxpaying voters whose property had been duly rendered for taxation voting on separate propositions voted in favor of the issuance thereof.

Sec. 2. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued pursuant thereto, the validity of which has been contested or attacked in any suit or litigation pending at the time that this Act becomes effective. Acts 1949, 51st Leg., p. 1178, ch. 592.

Emergency. Effective July 22, 1949.

**CHAPTER EIGHT—SINKING FUNDS—INVESTMENT, ETC.****Art. 836. 698 Investments**

The legally authorized governing body of any county, city or town, or the trustees of any school district or school community, may invest their respective sinking funds for the redemption and payment of the outstanding bonds of such county, city or town, or community, in bonds of the United States; war-savings certificates; and certificates of indebtedness issued by the Secretary of the Treasury of the United States; in bonds of Texas, or any county of this State, or of any incorporated city or town; and in shares or share accounts of building and loan associations organized under the laws of this State, or Federal Savings and Loan Associations domiciled in this State, where such shares or share accounts are insured under and by virtue of the Federal Savings and Loan Insurance Corporation. No such bonds shall be purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created. As amended Acts 1949, 51st Leg., p. 812, ch. 437, § 1.

Emergency. Effective June 19, 1949.

## TITLE 24—BUILDING AND LOAN ASSOCIATIONS

Art.

881b. Closing places of business [New].

### Art. 881a—9. Fees to accompany statement

At the time of the filing of its annual statement, every domestic Building and Loan Association shall be required to pay to the Treasurer, through the Banking Commissioner of Texas, fees, which are in lieu of examination fees, based upon its gross assets in amounts not exceeding figures calculated in accordance with the following schedule:

Those with assets less than		\$ 250,000.00		pay \$100.00
\$ 250,001.00	to		500,000.00	pay 150.00
500,001.00	to		750,000.00	pay 200.00
750,001.00	to		1,000,000.00	pay 250.00
1,000,001.00	to		1,250,000.00	pay 300.00
1,250,001.00	to		1,500,000.00	pay 350.00
1,500,001.00	to		1,750,000.00	pay 375.00
1,750,001.00	to		2,000,000.00	pay 425.00
2,000,001.00	to		2,500,000.00	pay 550.00
2,500,001.00	to		3,000,000.00	pay 650.00

For associations with assets from Three Million (\$3,000,000.00) Dollars to Six Million (\$6,000,000.00) Dollars in size, add One Hundred (\$100.00) Dollars for each Million or major fraction thereof in excess of Three Million (\$3,000,000.00) Dollars; for associations with assets over Six Million (\$6,000,000.00) Dollars add Fifty (\$50.00) Dollars for each Million or major fraction thereof in excess of Six Million (\$6,000,000.00) Dollars. Such fees, together with any other fees, penalties or revenues collected by the Commissioner pursuant to the provisions of this Chapter or pursuant to other laws of this State relative to corporations under the supervision of the Banking Department shall be paid by the Commissioner to the State Treasurer who shall deposit the same to the credit of the General Revenue Fund. The expenses of supervision, examination and of the Commissioner in enforcing the provisions of this Act<sup>1</sup> shall be paid upon the certificate of the Commissioner by warrant of the Comptroller upon the State Treasury. As amended Acts 1949, 51st Leg., p. 486, ch. 263, § 1.

<sup>1</sup> Articles 881a—1 to 881a—68; P.C. arts. 1136a—1 to 1136a—9.

Emergency. Effective May 27, 1949.

### Art. 881a—10. Examinations

The Banking Commissioner of Texas shall annually, or oftener if it is deemed advisable, either in person or through duly appointed representatives, make a thorough and complete examination of every Building and Loan Association doing business in this State, and for that purpose shall have the right of access to the offices and to all books and records of said company wherever the same may be kept, and also shall have the right to require the officers, employees or agents of such company, or any person connected therewith, to answer under oath any interrogatories addressed to them pertinent to the business of such company; and any willful false swearing shall be deemed perjury and be punishable as such. The Examiner shall make a report of his findings and file the same in the office of the Banking Commissioner of Texas and the Commissioner shall furnish a copy of such report to the association examined. Such Examiner shall report any violation of law or

any unauthorized or unsound practices of such association. He shall be paid such salary or fee for examinations, not to exceed Thirty (\$30.00) Dollars per day, as shall be authorized by the Banking Commissioner of Texas, which salary or fee and traveling expenses shall be paid out of the fees accumulated under Section 9.<sup>1</sup> As amended Acts 1949, 51st Leg., p. 486, ch. 263, § 1.

<sup>1</sup> Article 881a—9.

#### Art. 881a—24. Trust funds

Administrators, executors, guardians, trustees or other fiduciaries may in such capacity for a named beneficiary, acquire and hold shares or share accounts in any building and loan association organized under the laws of this State, or in any Federal savings and loan association domiciled in this State, and shall have the same rights and be subject to the same obligations, privileges and remedies as other shareholders and members. Administrators, executors, guardians, trustees or other fiduciaries may invest funds in their hands, as such, for a named beneficiary, in the obligations of any Federal Home Loan Bank, or in the obligations of the Federal savings and loan insurance corporation.

Provided, that where under the laws of Texas administrators, executors, guardians, trustees and other fiduciaries are required to obtain an order of the probate court to make investments, then such order shall be entered by the probate court before such fiduciaries are authorized to make the investments provided for in this section.

Any county, or any political subdivision of any county, any school district, city or town in this State as well as any Texas corporation, including any insurance company organized under the laws of this State, or any insurance company doing business in this State under a permit, may invest any of its funds in the shares or share accounts of any building and loan association organized under the laws of this State, or in the shares or share accounts of any Federal savings and loan association domiciled in this State, and any such investments made by insurance companies shall be eligible investments for tax reducing purposes under Article 7064 and Article 4769 of the Revised Civil Statutes of 1925, as amended. As amended Acts 1949, 51st Leg., p. 966, ch. 534, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 881a—25. Restrictions as to loans.

No building and loan association shall: (1) make a mortgage loan to an officer or director of such association, either directly or indirectly, unless such loan be first approved unanimously by the board of directors, such approval to be recorded by an aye and nay vote in the minutes of the meeting of the board; (2) make loans exceeding in the aggregate Five Thousand (\$5,000.00) Dollars to one borrower upon real estate security if the assets of the association do not exceed Fifty Thousand (\$50,000.00) Dollars; nor shall any such association make loans exceeding in the aggregate Ten Thousand (\$10,000.00) Dollars to one borrower upon real estate security if the assets of such association exceed Fifty Thousand (\$50,000.00) Dollars but do not exceed Two Hundred Thousand (\$200,000.00) Dollars; nor shall any such association make loans exceeding in the aggregate Twenty Thousand (\$20,000.00) Dollars to one borrower upon real estate security if the assets of such association exceed Two Hundred Thousand (\$200,000.00) Dollars but do not exceed Five Hundred Thousand (\$500,000.00) Dollars, and provided further that no

building and loan association shall at any time make loans in the aggregate in excess of Fifty Thousand (\$50,000.00) Dollars to one borrower unless such loan or loans in excess of Fifty Thousand (\$50,000.00) Dollars shall be not more than two per cent of the assets of such association; (3) take a mortgage loan or loans upon real estate which is not secured by a first and prior lien upon the property described in such mortgage, unless every prior lien or encumbrance thereon is owned by it, and no such prior mortgage, lien or encumbrance shall be sold, transferred or assigned by such association until every subsequent mortgage, lien, or encumbrance owned by it shall have been fully paid and satisfied; (4) make a loan upon real estate security unless the borrower furnishes to such association a satisfactory abstract of title for such real estate showing good title to such real estate in the borrower, or unless the borrower furnishes a policy of title insurance of a title insurance company authorized to insure titles in this State; (5) make a loan upon real estate unless the improvements thereon are insured against loss by fire, lightning, tornado and windstorm to the satisfaction of the board of directors; (6) fail to record forthwith in the office of the proper recording officer of the county in which the real estate security accepted by such association is located every mortgage and every assignment of a mortgage taken by any such association, such mortgage or assignment after recording to be kept in the permanent file on such association, subject to the examination of the State examiner, until the loan is fully discharged; (7) assign any note or mortgage given by members thereof, belonging to any such association, unless approved by the board of directors; provided, however, that any building and loan association may make construction or temporary loans upon real estate security to any one person where the amount of the loan to one borrower does not exceed four per cent of the entire assets of such association, or where such loan does not exceed fifty per cent of the reserves and undivided profits of such association, whichever is the least. As amended Acts 1949, 51st Leg., p. 966, ch. 534, § 1.

#### **Art. 881a—37. Investment of funds**

Subject to the provisions of this Act,<sup>1</sup> any building and loan association may invest the funds received by it, as follows:

1. In loans to its members on the sole security of its shares and share accounts. No such loan shall exceed ninety per cent of the withdrawal value of the shares or share accounts owned or otherwise pledged by the borrower. No such loan shall be made for more than fifty per cent of the withdrawal value of the shares pledged as security when an association has applications filed for withdrawal which have been on file and unpaid for more than ninety days.

2. (a) In real estate loans to members secured by a mortgage, deed of trust or other instrument creating and/or constituting a first lien on improved real estate situated in this State. Borrowers shall be required to execute their note or obligation payable directly to the association and such loans shall be repayable in monthly installments sufficient to amortize the same paying off interest and principal in not less than five nor more than twenty-five years, which monthly installments shall be applied first to the interest due on the unpaid balance of the debt, and the remainder of the payment to the unpaid principal thereof until the same is paid in full; (b) Instead of such direct reduction loan, the association may require the borrower to subscribe an amount of shares having a maturity value equal to the amount of the loan, and take a note or obligation of the borrower to mature upon the maturity



of such shares and shall require a monthly payment sufficient to pay the interest on the note and estimated to mature the shares within the time specified, and in such case the association shall have a lien on such shares to secure the debt, and upon the maturity of the shares shall transfer the amount to the credit thereof in extinguishment of the debt and shall cancel and relinquish the security; provided, that subject to the approval of the Commissioner, the number of payments of dues, interest and premium required from the borrowing shareholder to pay off his loan and secure a release may be limited to such a definite number as the by-laws provide.

No loan made to a member under the provisions of this subsection shall exceed sixty-five per cent of the appraised valuation of the real property securing the loan unless the loan is secured by a first mortgage upon real property upon which there is located a dwelling or dwellings for not more than four families, or combination dwellings of such type and business property, in which event the loan may be made in an amount not in excess of eighty per cent of the appraised valuation of such real property. Associations having a loan secured by a first lien upon real property may make further and additional loans secured by liens subsequent to their own first lien upon the same security, subject to the requirements and limitations heretofore provided for original loans. In each instance where money is advanced an appraisal shall at that time be made in writing by an appraiser or committee of appraisers selected and appointed by the Board of Directors of the Association, which appraisal report shall state the conservative value of the real property and improvements separately, and such report shall be filed as a permanent record of such association.

Associations may pay taxes, assessments, insurance premiums, and other similar charges for the protection of their interests in property on which they have loans, and may carry such advances upon their books as an asset of the association, and charge and collect interest upon such advances, and such association shall have a good and valid lien against such real property and shares of the association owned by the borrower to secure the payment of the funds so advanced; or such payments may be added to the unpaid balance of the loan as of the first of the month in which such payments are made.

No premium for real estate loans may be charged unless provided for in the by-laws, and the amount to be collected agreed to be paid, in writing, by the borrower.

3. In loans and advances of credit and obligations representing loans and advances of credit as are insured by the Federal Housing Administrator or the Federal Housing Administration pursuant to any and all of the provisions of the National Housing Act, approved June 27, 1934, as amended or as may hereafter be amended,<sup>2</sup> or any substitute therefor; and further, associations may make any loans for the purposes of aiding members to purchase or to construct residential properties or to repair, maintain, modernize or improve such properties if such loans be guaranteed or insured by the United States or any instrumentality thereof. Associations are authorized and empowered to contract for and to obtain and to accept such insurance or guarantees.

4. In loans to members secured by the pledge of the association's share or share accounts, either participating or non-participating, which shares or share accounts through the payment of weekly or monthly dues or share payments contracted to be made thereupon shall equal the amount of the loan to the member; provided, the aggregate of the unpaid principal of all loans directly made to any one member of the association under the provisions of sub-division 4 hereof shall not ex-

ceed at any time the sum of Five Hundred (\$500.00) Dollars, if at the time of making the loan or loans the association shall be one having assets less than One Million (\$1,000,000.00) Dollars and which shall not exceed at any time in any other authorized association the sum of One Thousand, Five Hundred (\$1,500.00) Dollars, that such loans shall be payable when the shares or share accounts equal the amount of the loan, maturity of which shall not exceed forty-eight months from its date and which note may bear interest not in excess of the lawful contract rate, which may be deducted in advance. Such associations may charge reasonable fees for investigation, appraisal, service, collection or other costs incident to the application or the loan, which fees may not be higher than those permitted to be collected by persons, firms, or corporations by the provisions of the laws of this State now in effect or as may hereafter be amended or enacted relating to or regulating the charges that may be made by any person, firm or corporation authorized to make this character of loan. The association may take such additional security as they may deem necessary or proper. The aggregate total amount of the unpaid principal of loans held by any association at any one time as authorized by sub-division 4 hereof shall be included within the amount and shall not exceed the prescribed limitation placed upon the aggregate amount of funds authorized to be invested by any association under the provisions of sub-division 5-d of this section; and provided further, that where such association is an 'insured' association subject to the provisions of Title IV of the National Housing Act, approved June 27, 1934, as amended,<sup>3</sup> before any such association may make loans authorized under sub-division 4 hereof, prior permission in writing must be given by the Federal Savings and Loan Insurance Corporation, Washington, D. C., and a copy of such permission filed with the Banking Commissioner of Texas.

5. If at any time an association has funds in its treasury applicable for loans and investments, which funds are deemed to be in excess of the amount needed for types of loans and investments hereinbefore enumerated, and for the payment of matured shares and withdrawal requests, such association may invest its funds: (a) without limit as to amount in the obligations of the United States of America, of this State, of any Federal instrumentality if such obligations be unconditionally guaranteed as to principal and interest by the United States, in stock of the Federal Home Loan Bank of which it is a member and obligations of the Federal Home Loan Banks and the Federal Savings and Loan Insurance Corporation; (b) in loans secured by a first lien upon improved real property situated in this State which may be either amortized monthly loans within the maximum period of maturity and the maximum ratio of loan to appraised value prescribed in sub-paragraph 2 hereof; or which may be term loans or loans providing for other methods of payment than amortized monthly installments and which may not provide a longer period of maturity than five years from the date of the loan, and which such loans shall not exceed sixty per cent of the conservative appraised value of the real property securing the loan, the value in all cases to be determined in the manner provided in this Act. In any case where an association is authorized to loan money upon property or by a lien upon such property, it is authorized to loan money upon first mortgages or other first liens upon such property: (c) in the stock or obligations of any National Mortgage Association created under the National Housing Act, as amended or as may hereafter be amended, the obligations of the Home Owners' Loan Corporation, the Reconstruction Finance Corporation, the Federal Land Banks, or in the obligations of any State in the Union that has not within the last ten years previous to making such

investment defaulted in the payment of any part of either principal or interest thereof; and subject to the rules and regulations promulgated by the Banking Commissioner of Texas in the following obligations and securities: in bonds, interest bearing notes or other obligations issued under due authority of law, in payment for permanent improvements made, bearing a fixed rate of interest, and payable within a definite number of years, or over a series of years, of any city, county, town or school district, or other sub-division of the State, now organized, or which may hereafter be organized, and which is now or may hereafter be authorized to issue bonds under the Constitution and laws of this State, which has not defaulted in the payment of any part of either principal or interest thereof within five years previous to making such investments; in first mortgage bonds of any steam or electric railroad, or other public utility corporation, domiciled in this or any other State of the Union, the annual net earnings of which steam or electric railroad, or public utility corporation, equalled during the last five years twice the annual interest charges on the entire funded indebtedness of such corporation; and in other bonds, notes, certificates and obligations, when such investments are specifically approved by the Banking Commissioner of Texas as a proper investment for the building and loan association seeking to make the investment; (d) in short term loans to and in the shares of other building and loan associations incorporated under this Act and of Federal Savings and Loan Associations located in this State, such loans and investments to be made only after prior approval by the Banking Commissioner. Provided further, that the aggregate amount of funds invested by any association in the loans and securities authorized under sub-division 4, sub-divisions 5-b, 5-c, and 5-d, and sub-division 6-d of this section shall at no time exceed twenty-five per cent of the gross assets of the association.

6. In real property as follows: (a) Any building and loan association having assets of Five Hundred Thousand (\$500,000.00) Dollars or more may permanently invest a portion of its funds in the purchase of lands and the erection of buildings thereon for the purpose of providing offices for the transaction of its business from portions of which, not required for its own uses, a revenue may be derived, provided that the amount so invested in a home office building shall not exceed in the aggregate the reserves, undivided profits and permanent capital of such associations; (b) such real property as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business; (c) such real property as it shall purchase at sales under foreclosure at any sheriff's or other judicial sale, or at any other sale, public or private, upon which property the association may have or hold any mortgage lien, or other encumbrance or in which the association may have any interest for the purpose of collecting any debt due it, and/or for the protection of its interest in such real property; (d) and such association may purchase the fee simple title to real property upon which improvements have been erected out of the proceeds of a loan which is secured by an obligation or mortgage, authorized, created and insured under the provisions of the National Housing Act, approved June 27, 1934, as amended and as may hereafter be amended, and which obligation or mortgage is in compliance with the rules and regulations prescribed by the Federal Housing Administrator, provided that at the time of such purchase there is a valid lease in effect creating a leasehold interest in such land and improvements thereon which lease has a term of at least twenty years from date of the note and complies with all requirements, terms, conditions, rules and regulations of the Federal Housing Administrator; (e)

such real property as may be purchased by the association under Section 27 hereof.

Real property may be acquired and sold in accordance with the provisions of Section 27 hereof,<sup>4</sup> provided that when sold by the association under a 'Contract of Sale' the amount due the association under terms of the contract may be entered and carried as an asset upon its books, but at no time shall the contract be considered as having an asset value greater in amount than the sales price agreed upon in the contract, or greater in amount than the value at which such property sold was permitted to be carried upon the books of the association in accordance with the provisions of Section 27 hereof, whichever value is less; provided, that the provisions of Section 27 and such other laws of this State as relate to the acquisition, handling and disposition of real property by building and loan associations shall not be deemed to apply to the authority granted by sub-section 6-d herein.

7. A reasonable amount in furniture and fixtures necessary for the conduct of the association's business against which must be charged annually a sufficient depreciation and which annual depreciation shall not be less than ten per cent of the original cost of such fixtures and furniture.

No law of this State prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credit may be made by building and loan associations, or prescribing or limiting the amount of monthly payment of dues upon installment shares of such associations, or prescribing the form of note or lien, or in anywise governing or limiting the action of the association in proceeding with the maturing of obligations in default and the acquisition of, possession and title to, property securing such obligations, or limiting or prescribing the amount that may be loaned to any one borrower or relating to the acquisition, handling or disposition of real property by such associations, shall be deemed to apply to the authority granted herein under sub-divisions 3, 4, and 6-d; and provided further, that the Banking Commissioner of the State of Texas is hereby authorized to prescribe additional regulations applying to the making of loans, advancing of credit, and purchase of obligations and real property, as authorized under sub-divisions 4 and 6-d of this section, and limiting the total investment of such associations, if in his judgment the protection of investors requires such additional regulations; and notice of the order fully setting out such additional regulations shall be given by registered mail to each building and loan association operating under this Act at least thirty days prior to the effective date of such order; and after the effective date so provided, it shall thereafter be unlawful for any association to exercise the authority herein given, without full compliance with such additional regulations.

8. Nothing herein shall be construed as preventing or restricting the deposit of cash funds of the association with any State or National Banking Association or with the Federal Home Loan Bank in which such association holds membership.

All notes and mortgages taken by the association shall be deemed to obligate the maker to the performance of and compliance with the provisions of this Act and by-laws of the association relating to the payment of loans, premium, interest, dues, fees and fines, although the same may not be fully expressed therein; and all borrowers of a building and loan association shall be deemed and held to be members thereof, and shall be permitted to cast the number of votes for each share held or subscribed as may be provided in the charter and by-laws.

of the association, but shall nevertheless be entitled to cast a vote in all matters for action by members whether they hold any shares or not.

Nothing herein shall be construed as preventing or restricting an association in order to protect itself from the loss upon a loan or investment previously made, from acquiring ownership of, or otherwise taking and holding any kind of property or security, whether real or personal.

Every association eligible to become a member of a Federal Home Loan Bank under the provisions of the Act of Congress known as the "Federal Home Loan Bank Act" approved July 22, 1932, as amended and as may hereafter be amended,<sup>5</sup> is authorized to do all things as may be required or permitted under said Act, or any amendment thereto, in order to obtain, continue, or terminate such membership; and to assume all the duties, obligations, responsibilities and liabilities and become entitled to all of the benefits provided in said Act, as amended and as may hereafter be amended; and

Every association eligible for insurance under the provisions of Title IV of the National Housing Act, approved June 27, 1934, as now or hereafter amended, is authorized to do all things necessary to obtain, continue, or terminate such insurance, and every action heretofore taken by any such association in connection with such insurance is hereby ratified and confirmed. All associations having the insurance protection provided by Title IV of the National Housing Act are hereby designated as "insured associations".

Any provisions of this Act to the contrary notwithstanding, any building and loan association which is chartered by the State of Texas and operating under the provisions of this Act may make any loan or investment which such associations could make were it incorporated and operating as a Federal Savings and Loan Association with its domicile in this State. If the loan or investment hereby authorized is an enlargement of powers granted by this Act, then such loans and investments may be made subject to rules and regulations promulgated by the Banking Commissioner of Texas. As amended Acts 1949, 51st Leg., p. 966, ch. 534, § 1.

<sup>1</sup> Articles 881a—1 to 881a—68; P.C. arts. 1136a—1 to 1136a—9.

<sup>2</sup> 12 U.S.C.A. §§ 1701-1742.

<sup>3</sup> 12 U.S.C.A. §§ 1724-1730.

<sup>4</sup> Article 881a—26.

<sup>5</sup> 12 U.S.C.A. §§ 1421-1449.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 881a—44. Membership fees

It shall be unlawful for any building and loan association organized under the laws of this State, or any building and loan association authorized to do business in this State under a permit, to charge investing members a membership fee, cancellation fee or withdrawal fee.

Any building and loan association organized under the laws of this State, or any building and loan association authorized to do business in this State, which violates any of the provisions of this Section, then and in that event, the Banking Commissioner of Texas shall annul its certificate of authority and may begin an action to revoke the charter of such building and loan association and for the appointment of a receiver thereof and the winding up of its affairs. Any action begun under this Section shall be brought in Travis County, Texas and in the name of the State of Texas on relation of the Banking Commissioner of Texas and shall be prosecuted by the Attorney General. As amended Acts 1949, 51st Leg., p. 696, ch. 363, § 1.

Emergency. Effective June 13, 1949.

**Art. 881a.—57. Foreign building and loan associations**

Foreign Building and Loan Associations may do business in this State in accordance with the laws of this State governing Building and Loan Associations. Foreign Building and Loan Associations doing business in this State under a permit and Federal Savings and Loan Associations incorporated under the provisions of the Home Owners' Loan Act of 1933, as now or hereafter amended,<sup>1</sup> domiciled in the State of Texas and the holders of shares or share accounts issued by any such association shall have all the rights, powers and privileges, and shall be entitled to the same exemptions and immunities to which Building and Loan Associations organized under the laws of this State and holders of shares or share accounts of such associations are entitled to, except that all the provisions of Sections 59 to 69, inclusive of this Act,<sup>2</sup> relating to foreign Building and Loan Associations shall be complied with by such foreign Building and Loan Association. As amended Acts 1949, 51st Leg., p. 486, ch. 263, § 1.

<sup>1</sup> 12 U.S.C.A. § 1461 et seq.

<sup>2</sup> Articles 881a—58 to 881a—66; Vernon's Anu.P.C., arts. 1136a—1, 1136a—2. Emergency. Effective May 27, 1949.

**Art. 881a—61. Fees to be paid**

All foreign Building and Loan Associations shall pay to the Banking Commissioner of Texas, the following fees, which shall be paid to the State Treasurer as hereinbefore provided, to-wit: For filing each application for admission to do business in this State, Five Hundred (\$500.00) Dollars, or Twenty (\$20.00) Dollars for each Million Dollars or major fraction thereof of the total assets of such association, whichever amount is the larger; for each certificate of authority and annual renewal of the same, Five Hundred (\$500.00) Dollars, or Twenty (\$20.00) Dollars for each Million Dollars or major fraction thereof of the total assets of such association, whichever amount is the larger, which shall be in lieu of an annual franchise tax for such foreign association. As amended Acts 1949, 51st Leg., p. 486, ch. 263, § 1.

Emergency. Effective May 27, 1949.

**Art. 881a—63. Examination**

Every foreign Building and Loan Association doing business in this State shall be subject to the same examinations as are Building and Loan Associations organized under the laws of this State, and shall pay to the Banking Commissioner of Texas for such examination the amount required to be paid by domestic associations under Section 9 of this Act<sup>1</sup> as filing fees, in lieu of examination fees, together with all traveling expenses of such examination; and provided that if such examination fee is inadequate to defray all the expenses of such examination, then the Banking Commissioner of Texas is authorized to collect from such foreign association the additional cost of such examination; and provided further, it shall not be necessary for such examination to be made but once in each year. As amended Acts 1949, 51st Leg., p. 486, ch. 263, § 1.

<sup>1</sup> Article 881a—9.

Emergency. Effective May 27, 1949.

**Art. 881b. Closing places of business**

Any Building and Loan Association organized under the laws of this State or which holds a permit to do business in this State, and any Federal Savings and Loan Association domiciled in this State, be, and the same

are hereby authorized and permitted to close their respective places of business at any time the Board of Directors of such institutions shall authorize. Acts 1949, 51st Leg., p. 601, ch. 319, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

**Title of Act:**

An Act to authorize Building and Loan Associations, and Federal Savings and

Loan Associations domiciled in this State to close their respective places of business at any time authorized by their Board of Directors; and declaring an emergency. Acts 1949, 51st Leg., p. 601, ch. 319.

## TITLE 26—CEMETERIES

### Art. 912. Trust fund

Burial grounds for veterans, purchase by commissioners courts, see art. 2372i.

### Art. 912a—1. Definitions

Expenditures by commissioners courts for maintenance and upkeep, see art. 2351e.

## TITLE 28—CITIES, TOWNS AND VILLAGES

### CHAPTER ONE—CITIES AND TOWNS

Art.	Art.
971a.      Map of boundaries [New]. 973a.      Validation of discontinuance of territory, boundaries and annexation of discontinued territory; cities of 3,000 or less [New]. 974c—2.    Cities of more than 5,000 population; validation of annexation, incorporation, and other matters [New]. 974c—3.    Cities and towns of 5,000 or less; validation of annexation and related matters [New]. 974c—4.    Annexation or definition of boundaries; validation [New]. 974d—2.    Validation of incorporation, boundaries and proceedings;	cities and towns of 5,000 or less [New]. 974e—7.    Annexation of vacant land to city of 2,315 to 2,400 [New]. 974g.      Annexation by cities of 5,000 or less of territory occupied by less than three voters [New]. 974—1.     Annexation by petition and election [New]. 974—2.     Contest of annexation proceeding [New]. 976a.      Zoning ordinances upon annexation [New]. 976b.      Ascertainment of population; validation of acts [New]. validation

#### **Art. 971a. Map of boundaries**

Each city, town or village incorporated under the General or Special Laws, or under the Home Rule provisions of the Constitution, shall keep in the office of the city secretary or town clerk, and in the office of the city engineer, if such city, town or village has a city engineer, a map showing the boundaries of the municipal corporation. In the event any territory is thereafter annexed to such city, town or village, then the map of the city shall be corrected immediately so as to add thereto the additional territory, indicating on the map the date of annexation, the number of the ordinance, if any, and a reference to the minutes or the ordinance records of the city where such instrument is recorded in full. Acts 1949, 51st Leg., p. 722, ch. 385, § 1.

Emergency. Effective June 13, 1949.

#### **Title of Act:**

An Act requiring all cities, towns and villages incorporated under the General or Special Laws, or under the Home Rule provisions of the Constitution, to have a map on file in the office of the city secretary or town clerk, and in the office of the

city engineer, if such city has a city engineer, showing the corporate boundaries of the city, and whenever any additional territory is annexed thereto, such additional territory shall be indicated on such map for the information of the public; and declaring an emergency. Acts 1949, 51st Leg., p. 722, ch. 385.

#### **Art. 973a. Validation of discontinuance of territory, boundaries and annexation of discontinued territory; cities of 3,000 or less**

**Section 1.** This Act shall apply to all cities and towns incorporated under the General Laws of this state having a population of two thousand (2,000) inhabitants or less at the time of the passage of any ordinance by the City Council of any such city or town discontinuing or attempting to discontinue any territory as a part of said city or town, and to any incorporated city or town contiguous thereto.

**Sec. 2.** All petitions praying for an ordinance and all ordinances discontinuing or attempting to discontinue any territory from within the corporate limits of any incorporated city or town having a population of two thousand (2,000) inhabitants or less at the time of the discontinuance or attempted discontinuance of any territory forming a part of said city, and the boundaries and areas of any such city or town after



the discontinuance or attempted discontinuance of any territory forming a part of said city or town, although said city or town, as a result of said discontinuance or attempted discontinuance consists of two or more separate areas, after the discontinuance or attempted discontinuance of any such territory, shall be, and the same are, hereby in all things validated and confirmed, and all cities and towns, having a population of two thousand (2,000) or less at the time of incorporation, whose charters and incorporations may be void by reason of having included in such limits more territory than authorized by Article 971, Revised Civil Statutes of 1925, are hereby declared to be valid, the same as if at first authorized.

Sec. 3. In every instance wherein a city or town, coming under the provisions of the Act, has attempted to discontinue territory as a part of said city or town under statutes providing for the discontinuing of territory adjoining the boundary lines of any such city or town, and all actions, resolutions, petitions, ordinances, proceedings, and contracts held, made, or passed in reference thereto, or pursuant thereto, and the boundaries of any such city or town and all cities and towns coming within and under the provisions of this Act after the discontinuance or attempted discontinuance of any such territory, are hereby ratified, validated, and confirmed, although said city, after the discontinuance or attempted discontinuance of such territory as a part of said city, is separated into two or more parcels or areas, as fully and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 4. The areas and boundaries of all cities and towns affected by this Act as the same have been reduced or attempted to be reduced by discontinuance or attempted discontinuance of territory, or any other action, are hereby in all things ratified, validated and confirmed.

Sec. 5. The Act of the governing body of any contiguous, incorporated city in subsequently annexing the territory thus discontinued, or attempted to be discontinued, is hereby in all things validated, ratified and confirmed.

Sec. 5a. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid for any reason. Acts 1949, 51st Leg., p. 59, ch. 31.

Emergency. Effective March 10, 1949.

**Title of Act:**

An Act validating the discontinuance and/or any attempted discontinuance of territory, and validating the boundaries and areas of all cities and towns incorporated under the General Laws of the State of Texas, having a population of two thousand (2,000) inhabitants or less, at the time of the discontinuance or attempted discontinuance of said territory; and declaring all cities and towns having a population of two thousand (2,000) or less as authorized by Article 971, Revised Civil Statutes of 1925, to be declared valid; validating all petitions and ordinances discontinuing or

attempting to discontinue territory, and validating the boundary lines of any such city or town, after the discontinuance or attempted discontinuance of such territory, although the territory in said city, as a result of the discontinuance or attempted discontinuance of such territory, consists of two or more separate areas; and validating the act of any city contiguous thereto in subsequently annexing the territory thus discontinued; provided that this Act shall not apply in cases where litigation, affecting such discontinuance or attempted discontinuance of territory, is now pending; and providing if any section, subsection, sentence, clause or phrase of this Act is

for any reason held to be unconstitutional Act; and declaring an emergency. Acts or invalid, such decision shall not affect the 1949, 51st Leg., p. 59, ch. 31. validity of the remaining portions of this

#### Art. 974a. Platting and recording subdivisions or additions

Section 1. That hereafter every owner of any tract of land situated within the corporate limits, or within five miles of the corporate limits of any city in the State of Texas, who may hereafter divide the same in two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall cause a plat to be made thereof which shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part, giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto; provided, however, that no plat of any subdivision of any tract of land or any addition to any town or city shall be recorded unless the same shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto. As amended Acts 1949, 51st Leg., p. 321, ch. 154, § 1(1).

Emergency, Effective May 13, 1949.

Sec. 10. Repealed. Acts 1949, 51st Leg., p. 321, ch. 154, § 1(2).

#### Art. 974c—2. Cities of more than 5,000 population; validation of annexation, incorporation, and other matters

Section 1. (a) All cities in the State of Texas having a population greater than five thousand (5,000) inhabitants, according to the last preceding Federal Census, and operating under the General Laws of Texas, including those operating under the Mayor and Alderman form of government, as well as those operating under the Commissioner form of government, as in such cases provided by law, and heretofore laid out and established by incorporation under the General Laws of Texas, in the manner prescribed by the laws of this State, are hereby validated in all respects as though they had been duly and legally established and so incorporated under the General Laws of Texas in the first instance. All acts of the Mayor and Board of Aldermen, or the Mayor and Board of Commissioners, or other governing body of said cities, ordering election, or elections, declaring results of such elections for the purpose of annexing additional territory to said cities; and otherwise by ordinance annexing additional territories to said cities under the provisions of Article 974, Revised Civil Statutes of Texas, 1925, levying, attempting or purporting to levy taxes for and on behalf of such cities, and all bonds issued and now outstanding, and all bonds heretofore voted, but not issued, and all bond assumption tax elections, following annexation elections or annexation proceedings under the provisions of Article 974, Revised Civil Statutes of Texas, 1925, under the terms of which by ordi-

nances of said cities, adjoining territory has purportedly been annexed to said cities, are hereby in all things validated.

(b) The fact that by inadvertence or oversight any act of the officers or governing body of any city or municipality, or of the Commissioners Court of the counties in which said cities are situated, in the creation of any such city, or in the annexation thereto of adjoining territory, was omitted, shall in nowise invalidate the incorporation of such city under the General Laws of Texas, nor the annexation of adjoining territory thereto according to the terms of the ordinances so enacted; and the fact that by inadvertence or oversight any act was omitted by the Mayor and Board of Aldermen, the Mayor and Board of Commissioners, or other governing body of any such city, or governing body of any municipality, in ordering an election, or elections, or in declaring the results thereof, or by ordinance annexing adjoining territory thereto under the provisions of Article 974, Revised Civil Statutes of Texas, 1925, or in levying taxes for such city, or in the issuance of bonds of any such city, shall in nowise invalidate any such proceedings or any bonds so issued by such city or municipality.

(c) All acts of the Mayor and Board of Aldermen, by the Mayor and Board of Commissioners, or other governing body of any and all cities and municipalities operating under the General Laws of this State with a population of five thousand (5,000) or more, according to the last preceding Federal Census, in rearranging, changing, annexing additional or adjoining territory, changing the boundaries of, or subdividing such cities or municipalities, or increasing or decreasing areas thereof in any such city or municipality, or in declaring by general election or by ordinance following the provisions of Article 974, Revised Civil Statutes of Texas, 1925, annexing additional territory to such cities or municipalities, and all acts of the governing bodies of any such cities or municipalities in annexing territories thereto, are hereby in all things validated.

Sec. 2. All cities or municipalities mentioned in this Act are hereby authorized and empowered to levy, assess and collect the same rate of tax as heretofore authorized, or attempted to be authorized under the General Laws of this State, or by any act of the governing body of such city or municipality, or by any election of taxpaying voters of such city or municipality, or by any act of the Legislature of this State, whether General or Special, 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 cities or municipalities, or by any act of the Legislature of this State, whether General or Special.

Sec. 3. This law shall not apply to any city or municipality governed by the terms of this Act which is now involved in litigation, or the validity of the organization or creation of which, or annexation of territory in or to such city or municipality 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 city or municipality which may have been incorporated under the General Laws and which was later returned to its original status; nor shall this Act apply to the annexation of additional territory to any such city or municipality which may have been declared void heretofore by the Courts of this State, or otherwise voided by the governing body themselves of such city or municipality.

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 void or unconsti-

tutional, it shall not affect any other word, phrase, clause, sentence, paragraph, section or part of this Act. Acts 1949, 51st Leg., p. 495, ch. 270. Emergency. Effective May 27, 1949.

**Art. 974c—3. Cities and towns of 5,000 or less; validation of annexation and related matters**

Section 1. This Act shall affect and apply to all cities and towns incorporated under the General Laws of this State and having a population of five thousand (5,000) inhabitants or less, according to the last preceding Federal Census.

Sec. 2. All elections, election orders, election proceedings, petitions and ordinances annexing territory to or extending and prescribing the corporate limits of any incorporated city or town having a population of five thousand (5,000) inhabitants or less according to the last preceding Federal Census, shall be and the same are hereby validated and confirmed.

Sec. 3. The ordinances of all cities and towns in the class described in the foregoing Section fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated and confirmed.

Sec. 4. In every instance wherein a city or town coming under the provisions of this Act has attempted to extend its corporate limits under Statutes providing for the annexation of adjoining territory, all actions, resolutions, elections, ordinances, proceedings and contracts held, made or passed, in reference thereto, or pursuant thereto, are hereby confirmed, ratified and validated, irrespective of any irregularities, as fully and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 4a. This law shall not apply to any city or town which on the effective date of this Act is involved in litigation which questions the annexation of territory or corporate limits thereof.

Sec. 5. The areas and boundaries of all cities and towns affected by this Act as the same have been extended or attempted to be extended by annexation or any other action are hereby in all things ratified.

Sec. 6. This Act shall not affect the validity of the annexation to or extension of the boundaries of any city or town wherein such annexation to, or extension of the boundaries of, are now, or within one hundred days after this bill becomes a law, involved in litigation. Acts 1949, 51st Leg., p. 698, ch. 365.

Emergency. Effective June 13, 1949.

**Art. 974c—4. Annexation or definition of boundaries; validation**

Section 1. All city charters, city charter amendments, ordinances and proceedings of the governing bodies of all incorporated cities, including home rule cities, defining the boundaries of such incorporated cities or annexing thereto territory adjoining any such city with the consent of a majority of the inhabitants of such annexed territory, are hereby ratified and confirmed.

Sec. 2. After the expiration of two (2) years from the date of any ordinance defining boundaries of or annexing territory to any incorporated city, consent to the annexation and inclusion of such territory in such city shall be conclusively presumed if no action has then been commenced to annul or review such act.

Sec. 2A. The provisions of this Act shall not apply to any territory of any city where the annexation of such territory is the subject of any

pending litigation at the time of passage of this Act. Acts 1949, 51st Leg., p. 934, ch. 508.

Emergency. Effective June 29, 1949.

**Art. 974d-2. Validation of incorporation, boundaries and proceedings; cities and towns of 5,000 or less**

Section 1. All cities and towns, in this State, of five thousand (5,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation. Acts 1950, 51st Leg., 1st C.S., p. 85, ch. 22.

Emergency Effective March 17, 1950.

**Art. 974e-7. Annexation of vacant land to city of 2,315 to 2,400**

Section 1. The owner or owners of any land and/or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than two thousand, three hundred and fifteen (2,315) inhabitants, and not more than two thousand, four hundred (2,400) 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 ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation 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 for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy

or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having an interest in such land, shall be filed in the office of the county clerk of the county in which such city is situated. Acts 1949, 51st Leg., p. 584, ch. 313.

Emergency. Effective June 3, 1949.

**Title of Act:**

An Act providing for the annexation by petition of unoccupied lands adjacent to cities or towns having a population of not

less than two thousand, three hundred and fifteen (2,315) persons nor more than two thousand, four hundred (2,400); and declaring an emergency. Acts 1949, 51st Leg., p. 584, ch. 313.

**Art. 974g. Annexation by cities of 5,000 or less of territory occupied by less than three voters**

Section 1. The owner or owners of any land or territory, to the extent of one-half ( $\frac{1}{2}$ ) mile in width, which is vacant and without residents, or on which less than three (3) qualified voters reside, contiguous and adjacent to any incorporated city or town within this State having a population of five thousand (5,000) or less inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city or town request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds, said petition to be duly acknowledged as required for deeds by each and every person or corporation having an interest in said land. 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 such city or town. Thereafter the territory so received and annexed shall become a part of such city or town, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city or town, and shall be bound by the acts and ordinances of such city or town. 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 shall be filed in the office of the County Clerk of the County in which such city or town is situated.

Sec. 2. The provisions of this Act shall be cumulative of all other laws on the subject of annexation of land or territory by incorporated cities and towns in the State. Acts 1949, 51st Leg., p. 451, ch. 243.

Emergency. Effective May 21, 1949.

**Art. 974—1. Annexation by petition and election**

Territory adjoining the limits of any city having a population greater than 5,000 inhabitants according to the last preceding or any future Federal Census, and operating under the General Laws of Texas, may become a part of such city in the following manner:

The inhabitants of such territory may petition said city to order an election to be held within such territory for the purpose of voting upon the question of whether such territory shall become a part of such city. Such petition shall contain a metes and bounds description of the territory, which shall not be more than one mile in width, be accompanied by a plat of the territory, and shall be signed by 100, or more, or by a majority, of the qualified electors residing within such territory. Upon the filing of such petition with the City Secretary or City Clerk of such city, the City Council may, by ordinance, order such election so requested.

Such ordinance shall specify the day on which such election shall be held, designate the place or places for holding such election, appoint the election officers, and prescribe the form of the ballot. Ten days notice of such election shall be given by posting a copy of such ordinance, certified by the City Secretary or City Clerk, in three public places in said territory, and by publishing the same for one time in some newspaper published in such territory or in such city. Such election shall be held in the manner prescribed for general city elections; only qualified electors residing within such territory shall be permitted to vote and the cost of such election shall be paid by such city. Returns of such election shall be made to the City Council of such city, and shall be canvassed and the result of such election declared by the City Council by an order entered in its minutes, which order shall be conclusive of the authority to annex such territory to such city. Should the results of such election show a majority in favor of becoming a part of such city, such City Council may by ordinance receive such territory as a part of such city. Thereafter, the territory so received shall be a part of such city, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens, and bound by the acts and ordinances made in conformity thereto and passed in pursuance of this title. Added Acts 1949, 51st Leg., p. 363, ch. 187, § 1.

Emergency. Effective May 14, 1949.

Sections 3 and 4 of the Act of 1949 read as follows:

"Sec. 3. The provisions of this Act shall be cumulative of all other laws on the subject of annexation of land or territory by incorporated cities and towns in the State.

"Sec. 4. If any section, sentence, clause

or part of this Act shall, for any reason, be held to be invalid, such decision shall not affect the remaining portions of this Act; and it is hereby declared to be the intention of the Legislature to have passed each section, sentence, clause and part thereof, irrespective of the fact that any section, sentence, clause or part thereof may be declared invalid."

#### Art. 974—2. Contest of annexation proceeding

To contest the validity of any annexation proceeding had under the provisions of Section 1 of this Act,<sup>1</sup> such contestant shall, within 60 days after the effective date of the ordinance annexing such territory, file with the City Secretary or City Clerk of such city, written notice and a written statement of the grounds on which such contestant relies to sustain such contest. In the event no such contest is filed with the City Secretary or City Clerk in the manner and within the time above stated, it shall be conclusively presumed that said election as held and the results thereof as declared by the City Council or City Commission, are in all respects valid and final and binding upon all courts. The provisions of Chapter 9, Title 50, of the Revised Civil Statutes of the State of Texas of 1925, and amendments thereto, not in conflict herewith, shall be applicable to all proceedings contesting the validity of any annexation proceeding had under Section 1 hereof, so far as applicable. Acts 1949, 51st Leg., p. 363, ch. 187, § 2.

<sup>1</sup> Article 974—1.

#### Art. 976a. Zoning ordinances upon annexation

Section 1. From and after the effective date of this Act, before any municipal corporation or city existing, or which may hereafter come into existence, as provided by Title 28 of the Revised Civil Statutes of this State, and which municipal corporation or city has in effect a comprehensive zoning ordinance as prescribed by the State Statutes, may be annexed to or incorporated into another such municipal corporation or city, the annexation ordinance or consolidation proceedings combining or incorporating such zoned territory, shall provide for and adopt the

identical comprehensive zoning for such zoned territory as same existed prior to any such annexation to or incorporation by another or new municipal corporation. Any attempted annexation or incorporation of such zoned territory without an ordinance adopting the comprehensive zoning as the same existed prior to incorporation of such territory into a larger or another municipal area shall render any such attempted proceedings void. Such zoning ordinance shall be administered and enforced by the governing body within the combined municipal boundaries, as provided by law.

Sec. 2. Thereafter such zoning ordinance as adopted in the incorporation or annexation ordinance shall not be repealed, altered or amended except by an election at which only the qualified voters residing in the zoned territory as it existed prior to being consolidated shall be eligible to vote.

Sec. 3. Nothing in this Act shall be construed so as to permit consolidation or annexation of any such municipal corporation or city without a vote of the people thereof, as now provided by law.

Sec. 4. If any word, clause, sentence or Section of this Act shall be declared invalid, such holding shall not affect any other word, clause, sentence or Section of this Act. Acts 1949, 51st Leg., p. 729, ch. 392.

Emergency: Effective June 13, 1949.

**Title of Act:**

An Act providing for the manner and procedure in which any municipal corporation or city having in effect a comprehensive zoning ordinance as prescribed by State Statutes may be annexed to, incorporated into or combined with another

such municipal corporation or city; providing said ordinance shall not be repealed, altered or amended except by election; providing nothing in the Act shall be construed to permit consolidation or annexation except by vote of the people; providing a saving clause; and declaring an emergency. Acts 1949, 51st Leg., p. 729, ch. 392.

**Art. 976b. Ascertainment of population; validation of acts**

All actions of the governing bodies of incorporated cities and towns in this State to ascertain the population of any such city or town which are evidenced by resolution or ordinance entered in its minutes, and all elections, election orders and other proceedings of every nature and kind in any manner dependent upon population affecting any such city or town are in all things ratified and confirmed, regardless of the population of such city or town as shown by the last Federal Census. Acts 1949, 51st Leg., p. 963, ch. 530, § 1.

Emergency: Effective July 1, 1949.

**Title of Act:**

An Act to ratify the acts of the governing body of any incorporated city or town in this State to ascertain the population of

any such city or town heretofore taken by resolution or ordinance adopted by such governing body in that regard; and declaring an emergency. Acts 1949, 51st Leg., p. 963, ch. 530.

**CHAPTER TWO—OFFICERS AND THEIR ELECTION**

**Art. 977. 784, 387, 344 City officials**

The municipal government of the city shall consist of a city council composed of the mayor and two (2) aldermen from each ward, a majority of whom shall constitute a quorum for the transaction of business, except at called meetings, or meetings for the imposition of taxes, when two-thirds (2/3) of a full board shall be required, unless otherwise specified, provided that where the city or town is not divided into wards, the city council shall be composed of the mayor and five (5) aldermen, and the provisions of this title relating to proceedings in a ward shall apply to a whole city or town. The above-named officers shall be elected by the



qualified electors of the city for a term of two (2) years. Other officers of the corporation shall be a treasurer, an assessor and collector, a secretary, a city attorney, a marshal, a city engineer, and such other officers and agents as the city council may from time to time direct, who may either be appointed or elected as provided by ordinance. The city council may confer the powers and duties of one or more of these offices upon other officers of the city. As amended Acts, 1949, 51st Leg., p. 375, ch. 199, § 1.

Emergency. Effective May 14, 1949.

Section 2 of the amendatory act of 1949, added art. 999a.

Section 3 provided: "If any Section of

this Act shall be held to be unconstitutional, the remaining Sections or parts thereof shall not be affected but shall remain in full force and effect."

### CHAPTER THREE—DUTIES AND POWERS OF OFFICERS

Art.

999a. Marshal may be dispensed with [New].

#### Art. 998. 808 Police officers

Compensation of policemen in certain cities, see Vernon's Ann.P.C. art. 1583—2.

#### Art. 999a. Marshal may be dispensed with

The governing body of any city or town operating under the general laws having less than five thousand (5,000) inhabitants according to the last preceding Federal Census, may by ordinance, dispense with the office of marshal, and at the same time by such ordinance confer the duties of said office upon a city police officer to be appointed as the city council shall direct. Added Acts 1949, 51st Leg., p. 375, ch. 199, § 2.

Emergency. Effective May 14, 1949.

Section 1 of the act of 1949, amended art. 977.

### CHAPTER FOUR—THE CITY COUNCIL

Art.

1015h. Public building; powers of city owning natural gas distribution system [New].

#### Art. 1011. 817, 464, 418 Powers

The City Council, or other governing body shall have power to pass, publish, amend or repeal all ordinances, rules and police regulations, not contrary to the Constitution of this State, for the good government, peace and order of the City and the trade and commerce thereof, that may be necessary or proper to carry into effect the powers vested by this title in the corporation, the city government or in any department or office thereof; to enforce the observance of all such rules, ordinances and police regulations, and to punish violations thereof. No fine or penalty shall exceed Two Hundred Dollars (\$200). As amended Acts 1949, 51st Leg., p. 367, ch. 190, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 1011f. Zoning commission

In order to avail itself of the powers conferred by this Act, such legislative body shall appoint a commission, to be known as the Zoning Com-

mission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such legislative body shall not hold its public hearings or take action until it has received the final report of such commission. Where a city plan commission already exists, it may be appointed as the Zoning Commission. Written notice of all public hearings on proposed changes in classification shall be sent to all owners of property, or to the person rendering the same for city taxes, affected by such proposed changes of classification and to all owners of property, or to the person rendering the same for city taxes, located within two hundred (200) feet of any property affected thereby within not less than ten (10) days before any such hearing is held. Such notice may be served by depositing the same, properly addressed and postage paid, in the city post office. As amended Acts 1949, 51st Leg., p. 205, ch. 111, § 1.

Emergency. Effective May 3, 1949.

#### **Art. 1015. Other powers**

Compensation of policemen in certain cities, see Vernon's Ann.P.C. art. 1583—2.

#### **Art. 1015h. Public building; powers of city owning natural gas distribution system**

##### **Application of act; powers of eligible city**

**Section 1.** This Act shall apply to all incorporated cities, including Home Rule Cities, of more than fifty thousand (50,000) population according to the last preceding Federal Census which own and operate a natural gas distribution system serving the inhabitants of all or part of such city. Any such city, for the purposes of this Act, shall be an "eligible" city.

Any eligible city shall have the power to construct, purchase, equip, improve, repair, remodel and enlarge coliseums, exposition and convention halls, city halls and other public buildings and the necessary sites therefor, and to issue revenue bonds for such purposes. Such cities may acquire one (1) building for any one (1) or more of the foregoing purposes or may acquire one (1) or more buildings for any one (1) or more of such purposes.

##### **Revenue bonds; security; pledge of revenues of gas system**

**Sec. 2.** When authorized at an election as hereinafter provided, the governing body of any eligible city shall be authorized to issue the revenue bonds of such city bearing interest at a rate not to exceed five per cent (5%) per annum and maturing within not more than thirty (30) years from their date or dates, and to secure the payment thereof by pledging and encumbering the net revenues of the revenue producing parts of such buildings and, at the option of the governing body, by a further pledge of the net revenues of the city's municipal gas distribution system, either any part or all. Such bonds shall be issued under the provisions of Articles 1111 to 1118, both inclusive of the Revised Civil Statutes of Texas, 1925, as amended, except where same are in conflict with the provisions of this Act. No such bonds shall be issued, however, until first authorized by a majority vote of the voters qualified to vote in such elections and voting at an election called for such purpose. Such election shall be called and held in the same manner provided for other bond elections for such city. The issuance of revenue bonds to provide funds

with which to acquire one (1) or more buildings for one (1) or more of the foregoing purposes may be submitted as one (1) proposition at such election; provided that all bonds included in one (1) proposition are secured by a pledge of the same revenues.

**Ordinances; books and accounts**

Sec. 3. The governing body of any such city shall be authorized to make such provisions in the ordinance or ordinances authorizing the issuance of such bonds as it shall deem proper and desirable in regard to the terms and conditions upon which such revenues, or any designated part thereof, shall be pledged, the method of securing the payment of such bonds, the use of the pledged revenues, the establishment of reserves for depreciation, replacements, betterments, additions and extensions, the duties and obligations of the city in regard to the use, maintenance and operation of the facilities whose net revenues are pledged to the payment of such bonds and as to the right of redemption, if any, of such bonds before their respective maturity dates. It shall be the duty of the city to establish and maintain separate books and accounts for each of the properties whose income shall have been pledged.

**Additional bonds**

Sec. 4. The governing body of such cities shall be authorized to issue additional revenue bonds for such purposes secured by a pledge of all or any part of the net revenues which are pledged to the payment of previously issued bonds 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 being authorized at an election held as hereinabove provided for original issues. Any ordinance authorizing the issuance of bonds under this Act may provide for the use by the city of surplus revenues for other lawful purposes.

**Refunding bonds**

Sec. 5. The governing body of any said city shall be authorized to refund all or any part of any bonds issued under the provisions of this Act by the issuance of refunding bonds without the necessity of an election; provided that the refunding bonds shall not bear interest at a higher rate than that borne by the bonds being refunded.

**Act cumulative; conflict with existing laws**

Sec. 6. This Act shall be cumulative of all other laws on the subject, but in the event any of its provisions are in conflict with any existing laws, the provisions hereof shall prevail and be effective in regard to the subject matter of this Act.

**Partial invalidity**

Sec. 7. If any paragraph, sentence, clause, phrase or provision of this Act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the remaining provisions of this Act or the application thereof to any other person or circumstance and the provisions of this Act are declared to be severable. Acts 1949, 51st Leg., p. 735, ch. 397.

Emergency. Effective June 13, 1949.

## CHAPTER EIGHT—STREETS AND ALLEYS

## Art. 1085a. Freeways in cities of 50,000 or more

Section 1. In all incorporated cities and towns containing more than fifty thousand (50,000) 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, subsection, sentence, clause, or phrase of the 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. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict. As amended Acts 1949, 51st Leg., p. 779, ch. 419, § 1.

Emergency. Effective June 14, 1949.

## CHAPTER TEN—PUBLIC UTILITIES

1. CITY OWNED UTILITIES	Art.
Art. 1109e. Contract with district created to supply water to city [New].	1111b. Additional bonds and refunding bonds; light and power systems [New].
1110b. Separate city and rule systems of home rule cities [New].	1113a. Transfer of revenues to city's general fund [New].
2. ENCUMBERED CITY SYSTEM	1118q. Hydro-electric generating facilities, acquisition of [New].
1111a. Additional bonds and refunding bonds; water or sewer systems [New].	

## 1. CITY OWNED UTILITIES

Art. 1108. 769 to 722<sup>1</sup> Public Utilities

<sup>1</sup> Numbers 769 to 722 should be 769 to 772.

Construction of electric lines on and across roads and streets, see art. 1436A.

**Art. 1109. Waterworks**

Laying pipes, etc., outside limits, see art. 1433a.

**Art. 1109e. Contract with district created to supply water to city****Contract authorized; provisions of contract**

Section 1. Any city or town within this State is hereby authorized to enter into a contract with any district or authority, hereinafter called "district," created under Article XVI, Section 59 of the Constitution for the purpose of supplying water to such city. Any such city may also lease its water production, water supply and water supply facilities to such district or make a contract with such district for operation by the district of its water production, water supply, and water supply facilities. Any contract authorized by this Act may provide that the city shall not obtain water from any source other than the District except to the extent provided in such contract. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid.

**Rates**

Sec. 2. Any water supply contract provided in the preceding section shall be subject to the statutory or the contractual duty of the district from time to time to revise the rate of compensation for water sold and services rendered by the district to the city under such contract so that the net revenues of the district will at all times be sufficient to enable the District to pay its operation and maintenance expense and to pay the principal and interest on bonds secured by such contract to the extent provided in the resolution authorizing said bonds. Money required to be paid by the city to the district under such contract shall constitute an operating expense of the waterworks system of the city.

**Election**

Sec. 3. (a) No city shall make any contract authorized by this Act unless authorized by a majority vote in an election held in such city. Such election shall be ordered by the governing body of the city and notice thereof shall be published once each week for two (2) consecutive weeks, the first of such publications to be at least fourteen (14) days prior to the election, in a newspaper of general circulation published within the city. If no newspaper is published in the city the notice shall be posted at the City Hall and at two (2) other public places in the city. The notice shall be sufficient if it states the time and place of holding the election, and that the purpose of the election is to determine whether the governing body of the City shall be authorized to make the water supply contract, or make the lease or operating contract, or both as the case may be. Both questions may be submitted in the same proposition.

(b) Only qualified electors of the city who own taxable property therein and who have duly rendered the same for taxation shall be permitted to vote at such election. Except as otherwise provided in this Act, the general election laws shall govern such election.

(c) If a majority of the votes cast at said election are in favor of the proposition the governing body shall pass an ordinance prescribing the form and substance of the lease or contract, or both, as the case may be, and directing the mayor or mayor pro tem to sign it. Such ordinance may be passed by vote of a majority of the members of the governing body

on one (1) reading and at the same meeting at which it is introduced. Acts 1949, 51st Leg., p. 667, ch. 342.

Emergency. Effective June 8, 1949.

#### Art. 1110b. Separate city and rural systems of home rule cities

Section 1. The acts of all home-rule cities whose charters authorize such cities to furnish electric light and power service both within and without corporate limits of such cities, and which cities now own and operate municipal electric systems and where, by such acts, such cities have heretofore set up and now own and operate rural electric systems as a unit separate and apart from the city system and as a separate utility, are hereby validated in all respects as though they had been duly and legally established as separate systems in the first instance. All the acts of municipal governing bodies of such municipalities setting up such systems as separate units and all bonds, mortgages, warrants and other evidence of indebtedness heretofore issued or heretofore voted or authorized to be issued, but not issued, are hereby validated; and such bonds, mortgages, warrants, and other evidences of indebtedness shall be an obligation of each unit separately. The encumbrances and obligations pertaining to one system shall in no way apply to or affect the other system. No such obligation heretofore or hereafter issued shall ever be a debt of such city but solely a charge upon the properties of the system, and shall never be reckoned in determining the power of such city to issue bonds for any purpose authorized by law. The expense of operation and maintenance of such system shall always be a first lien and charge against the income thereof. Included within such expense shall be all salaries, labor, repairs, cost of electrical energy, interest, repairs or extensions necessary to render efficient service, and every other proper operation and maintenance expense. The governing bodies of such cities mentioned in this Act shall charge and collect for such service a sufficient rate to pay all operation and maintenance expense, depreciation, replacement, betterment and interest charged, and to pay the principal of and interest on all obligations issued against each system separately, and to maintain such reserve or reserves, if any, as may be prescribed in the ordinance authorizing the issuance of such obligations. No part of the income of each of such systems shall ever be used to pay any other debt, expense or operation until the indebtedness so secured shall have been finally paid. Every evidence of indebtedness issued by the cities mentioned herein shall contain the clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." All evidences of indebtedness hereafter issued by the cities mentioned herein shall be payable in not more than forty years from date and shall bear interest at not more than 5% per annum. Such evidences of indebtedness shall be signed by the mayor and countersigned by the city secretary; provided, however, that the facsimile signatures of such officers may be printed or lithographed on any interest coupons attached to any obligation issued by such cities. Such cities mentioned herein need not submit any obligation issued against either of such systems to any public official of this State, the only approval required or authorized under this Act being that of the governing body of the city. Any such obligations issued hereunder shall be non-contestable after issuance and delivery, except for fraud and forgery. Provided, however, no authority granted herein shall ever permit or authorize any such cities to construct facilities or furnish electric power and energy to any areas already being served with central station electric service.

Sec. 2. Any obligation issued hereunder 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. 3. All acts of any such city and the governing body thereof in heretofore setting up and operating such systems are hereby in all things validated, and all encumbrances and mortgages pertaining to each such system and all obligations heretofore or hereafter issued, secured by a pledge of and/or payable from the revenues thereof, are hereby in all things validated; and such obligations shall be considered as obligations issued under this Act. Acts 1949, 51st Leg., p. 973, ch. 535.

Emergency. Effective July 4, 1949.

## 2. ENCUMBERED CITY SYSTEM

### Art. 1111. Powers

Revenue refunding bonds of cities with annexed territory within water control or supply districts, see art. 1182c-1, § 5.

### Art. 1111a. Additional bonds and refunding bonds; water or sewer systems

#### Additional bonds while prior bonds outstanding

Section 1. Any city or town including any Home Rule city which heretofore has issued or hereafter may issue bonds payable from and secured by a pledge of the net revenues derived or to be derived from the operation of its water system or sewer system or both in the manner provided by Articles 1111-1118, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, or under any other law applicable to such city or town and while all or part of such bonds remain outstanding shall have the power on one or more occasions to issue bonds or other obligations for the purpose of improving or extending, or both for improving and extending such water system or sewer system, or both, payable from the revenues of such system or systems, and such bonds shall constitute a lien upon the revenues thereof in the order of their issuance inferior to the lien securing the payment of any or all issues and series of bonds previously issued. As to any such bonds issued and outstanding prior to the effective date of this Act the power herein conferred shall not be exercised unless expressly permitted in and shall be subject to any restrictions, covenants or limitations contained in the ordinance authorizing their issuance or in the deed of trust or the indenture of trust securing their payment; provided further, in those instances where in the ordinance or deed of trust or indenture of trust provision was made for the subsequent issuance of additional bonds on a parity with the bonds issued pursuant to the provisions of such ordinance or deed of trust or indenture of trust any such city or town shall have the power to authorize, issue and sell additional bonds payable from the revenues pledged to such bonds previously issued and secured by pledges and liens on a parity with and of equal dignity with the pledge securing the bonds previously issued. In the issuance of revenue bonds in the future for such purposes, any such city or town may prescribe in the ordinance or deed of trust or indenture of trust for the issuance later of additional issues or series of bonds on a parity with the bonds being issued pursuant to and subject to the restrictions, covenants and limitations contained in such ordinance, deed of trust or indenture of trust.

**Refunding bonds**

Sec. 2. Refunding bonds may be issued for the purpose of refunding the bonds of a single series or issue or two or more consecutive issues or series of bonds and such refunding bonds shall enjoy the same priority of lien on the revenues pledged to their payment as pledged to the bonds refunded, provided that when two or more consecutive series or issues of bonds are refunded in a single issue of refunding bonds the lien of all such refunding bonds shall be equal if all of the outstanding bonds of the several series or issues of bonds to be refunded are surrendered in exchange for such new refunding bonds. No refunding bonds shall attain any degree of priority of lien greater than that enjoyed by the series or issue then to be refunded having the highest priority of lien. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds enjoying a prior or inferior lien.

**Approval and issuance of bonds**

Sec. 3. Before any such bonds are sold or exchanged as the case may be, they shall be submitted to and approved by the Attorney General of the State of Texas in the manner and with the effect provided in Articles 709 to 715, both inclusive, Revised Civil Statutes of 1925, as amended, and except as otherwise provided by this law, such bonds shall be authorized and issued in accordance with Articles 1111-1118, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, and to the extent of any conflict herewith, this law shall take precedence over such conflicting or inconsistent provisions.

**Partial invalidity**

Sec. 4. In case any one or more of the sections or provisions of this Act or the application of such sections or provisions to any situation or circumstance shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this Act or the application of such sections or provisions to any other situation or circumstance, and it is intended that this law shall be construed and applied as if such unconstitutional section or provision had not been included herein. Acts 1949, 51st Leg., p. 463, ch. 249.

Emergency. Effective May 21, 1949.

**Art. 1111b. Additional bonds and refunding bonds; light and power systems**

**Additional bonds while prior bonds outstanding**

Section 1. Any city or town including any Home Rule City which heretofore has issued or hereafter may issue bonds payable from and secured by a pledge of the net revenues derived or to be derived from the operation of its light and power system or both in the manner provided by Articles 1111-1118, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, or under any other law applicable to such city or town and while all or part of such bonds remain outstanding shall have the power on one or more occasions to issue bonds or other obligations for the purpose of improving or extending, or both for improving and extending such light and power system, or both, payable from the revenues of such system or systems, and such bonds shall con-



stitute a lien upon the revenues thereof in the order of their issuance inferior to the lien securing the payment of any or all issues and series of bonds previously issued. As to any such bonds issued and outstanding prior to the effective date of this Act the power herein conferred shall not be exercised unless expressly permitted in and shall be subject to any restrictions, covenants or limitations contained in the ordinance authorizing their issuance or in the deed of trust or the indenture of trust securing their payment; provided further, in those instances where in the ordinance or deed of trust or indenture of trust provision was made for the subsequent issuance of additional bonds on a parity with the bonds issued pursuant to the provisions of such ordinance or deed of trust or indenture of trust any such city or town shall have the power to authorize, issue and sell additional bonds payable from the revenues pledged to such bonds previously issued and secured by pledges and liens on a parity with and of equal dignity with the pledge securing the bonds previously issued. In the issuance of revenue bonds in the future for such purposes, any such city or town may prescribe in the ordinance or deed of trust or indenture of trust for the issuance later of additional issues or series of bonds on a parity with the bonds being issued pursuant to and subject to the restrictions, covenants and limitations contained in such ordinance, deed of trust or indenture of trust.

#### **Refunding bonds**

Sec. 2. Refunding bonds may be issued for the purpose of refunding the bonds of a single series or issue or two or more consecutive issues or series of bonds and such refunding bonds shall enjoy the same priority of lien on the revenues pledged to their payment as pledged to the bonds refunded, provided that when two or more consecutive series or issues of bonds are refunded in a single issue of refunding bonds the lien of all such refunding bonds shall be equal if all of the outstanding bonds of the several series or issues of bonds to be refunded are surrendered in exchange for such new refunding bonds. No refunding bonds shall attain any degree of priority of lien greater than that enjoyed by the series or issue then to be refunded having the highest priority of lien. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds enjoying a prior or inferior lien.

#### **Approval and issuance of bonds**

Sec. 3. Before any such bonds are sold or exchanged as the case may be, they shall be submitted to and approved by the Attorney General of the State of Texas in the manner and with the effect provided in Articles 709 to 715, both inclusive, Revised Civil Statutes of 1925, as amended, and except as otherwise provided by this law, such bonds shall be authorized and issued in accordance with Articles 1111-1118, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, and to the extent of any conflict herewith, this law shall take precedence over such conflicting or inconsistent provisions.

#### **Partial invalidity**

Sec. 4. In case any one or more of the sections or provisions of this Act or the application of such sections or provisions to any situation or circumstance shall for any reason be held to be unconstitutional, such

unconstitutionality shall not affect any other sections or provisions of this Act or the application of such sections or provisions to any other situation or circumstance, and it is intended that this law shall be construed and applied as if such unconstitutional section or provision had not been included herein. Acts 1949, 51st Leg., p. 465, ch. 250.

Emergency. Effective May 21, 1949.

**Art. 1113a. Transfer of revenues to city's general fund**

That cities having a population of two hundred thousand (200,000) or more, and their officials and utility trustees, are hereby authorized to transfer to the city's general fund and use for general or special city purposes revenues (now on hand or hereafter received) of any city-owned utility system in the amount and to the extent authorized or permitted in the indenture, deed of trust, or ordinance providing for and securing payment of revenue bonds issued under Articles 1111-1118, Revised States, as amended, notwithstanding any prohibition contained in Article 1113, Revised Statutes. Acts 1949, 51st Leg., p. 940, ch. 513, § 1.

Emergency. Effective June 29, 1949.

**Art. 1118n—5. Redemption of outstanding revenue bonds and issuance of new bonds**

**Eligible cities**

Section 1. This Act shall be applicable to any city which has outstanding waterworks or waterworks and sewer systems revenue bonds and which has on hand sufficient money to pay said bonds together with the interest thereon to the date when they become due or optional for prior payment and the contract premium if any. Any such city is hereinafter sometimes called "eligible city".

**Deposits with state treasurer**

Sec. 2. An eligible city shall have the right to deposit in the office of the State Treasurer of the State of Texas a sum of money equal to the principal amount of its said outstanding and unpaid revenue bonds plus the amount of interest which will accrue on each of said bonds calculated to the date on which it is to become due or on which it may be redeemed and the amount of contract premium if any, and concurrently with such deposit shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-twentieth ( $1/20$  of one (1%) per cent of the principal amount of said bonds and one-eighth ( $1/8$ ) of one (1%) per cent of the interest to accrue on all of said bonds, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest of said bonds are payable for its services in paying such principal and interest. The State Treasurer may rely on a certificate by such city as to the amount of the charges made by such bank or trust company. At the same time such city shall deliver to the State Treasurer a certified copy of the ordinance authorizing said revenue bonds, or a certified excerpt therefrom, showing clearly the amounts and the date or dates on which interest is due on such bonds, the date when the principal becomes subject to redemption, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments, and instruments, and safely to keep and use such money for the purposes set forth in this Act and for no other purpose, and no part of such money except that in payment for his

services and to reimburse his expenses in performing such services shall be used by or for the State of Texas or for any creditor of the State of Texas, nor shall such money be commingled with any other money.

#### **Duties of state treasurer**

Sec. 3. It shall be the duty of the State Treasurer not less than fifteen (15) days before such interest is due according to the tenor and effect of said bonds, and the principal becomes redeemable, to forward by registered mail to the bank or trust company where the principal of and interest on such bonds are payable, an amount sufficient to pay such principal and interest, and premium if any, and to pay the service charges of such bank or trust company. The State Treasurer shall notify such bank or trust company to forward to him bonds and coupons thus cancelled, and after he shall have made a record of their payment and cancellation shall forward such cancelled bonds and coupons to such city.

#### **Issuance of new bonds**

Sec. 4. When an eligible city shall have deposited and paid into the office of the State Treasurer the money and shall have done the things required under Section 2 it shall have authority to issue additional revenue bonds, securing them by a pledge of the revenue from the operation of its waterworks system or of its waterworks and sewer systems, in such manner as is authorized by Articles 1111 to 1118 of the Revised Civil Statutes of Texas, 1925, as amended, and for the purposes authorized in said Articles. The deposit authorized by Section 1 hereof to be made with the State Treasurer shall be made prior to or concurrently with the sale and delivery of the new bonds authorized by this Act, but all other proceedings relating to the authorization and issuance of such bonds may be had prior to the making of such deposit. No revenue bonds shall be issued under authority of this Section 5 unless they shall have been authorized at an election held in such city in accordance with the provisions of Article 704 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 382, Acts of the First Called Session of the 44th Legislature. It is especially provided that regardless of any provisions to the contrary contained in the law under which such new revenue bonds are to be issued, they shall constitute a first charge on the income of the waterworks system or waterworks and sewer systems, after the payment of the expense of maintenance and operation of such system or systems subject only to any payments which must be made to the State Treasurer from such income to prevent any default in principal of or interest on such outstanding revenue bonds, for the benefit of which such deposit shall have been made with the State Treasurer. The right of the holders of said outstanding revenue bonds to have any deficiency paid out of such income shall remain unimpaired.

#### **Subsequent issuance of additional bonds**

Sec. 5. Regardless of any provisions to the contrary contained in the law or laws under which such new revenue bonds shall be issued, so long as any of said new revenue bonds are outstanding no additional revenue bonds secured by a pledge of the revenues of the system shall be issued thereafter except in accordance with limitations prescribed in the ordinance authorizing the revenue bonds first to be issued by such city pursuant to this Act; but it shall be lawful for such city to authorize and issue additional or subsequent waterworks revenue bonds provided that they are issued in all respects in conformity with and subject to limitations contained in such ordinance.

**Withdrawal of deposits**

Sec. 6. After an eligible city has made the deposits and payments required under Section 2, at any time it may withdraw from the State Treasury the amount of money, both principal and interest, deposited on account of any bond by exhibiting to the State Treasurer said bond duly cancelled, whereupon the State Treasurer shall make a proper record of the payment and cancellation of such bond.

**Surrender, payment and cancellation of bonds**

Sec. 7. At any time after an eligible city shall have made the deposits and payments required under Section 2, the holder of any such bond, irrespective of its maturity date, shall have the right to surrender such bond to the State Treasurer and shall receive therefor a sum equivalent to all money then remaining on deposit with the State Treasurer, made on account of such surrendered bond. Whereupon such bond shall be duly cancelled by the State Treasurer, and delivered or forwarded to such city.

**Approval of record and bonds; registration**

Sec. 8. When an eligible city shall have duly authorized the issuance of its revenue bonds, and the record pertaining thereto shall have been presented to the Attorney General of Texas, it shall be the duty of the Attorney General to approve such record, and thereafter when such new revenue bonds are presented to him, to approve such bonds subject to the making of the deposit provided in Section 2 hereof. After such record and bonds have been approved by the Attorney General and after such bonds have been registered in the office of the Comptroller of Public Accounts, they shall be held for all purposes to be fully negotiable instruments and shall, according to their tenor and effect, be valid and binding revenue obligations of such city and shall be incontestable for any cause from and after such registration.

**Bonds of state treasurer**

Sec. 9. The bond or bonds given by the State Treasurer under Article 4368 to secure the faithful execution of the duties of his office (except such special bonds as may have been given to protect funds of the United States Government) and any and all other bonds which may have been given by the State Treasurer, shall be construed as protecting all moneys and securities deposited or placed with the State Treasurer under this Act.

**Act cumulative**

Sec. 10. This Act is cumulative of all other Acts on the subject, but to the extent that its provisions are inconsistent or in conflict with the provisions of other laws, the provisions of this Act shall be controlling.

**Partial invalidity**

Sec. 11. 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 circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. Acts 1949, 51st Leg., p. 1003, ch. 541.

Emergency. Effective July 7, 1949.

**Art. 1118q. Hydro-electric generating facilities, acquisition of**

Section 1. Any city in Texas which owns an electric distribution system, whether or not such city also owns facilities for the generation of electricity, may acquire by purchase, and improve, maintain and operate any privately owned facilities for the generation of hydro-electric power having an installed capacity of not less than two thousand (2,000) kilowatts, which may exist within five (5) miles of the boundary of such city, including all lands, flowage rights and water rights and related generating and transmission equipment and lines, and for the purpose of paying the cost of such acquisition and improvement may issue the bonds of such city pursuant to the provisions of Articles 1111 to 1118, inclusive, Revised Civil Statutes of Texas, as such Articles now exist or may be hereafter amended, which bonds representing purchase money shall be fully negotiable for all purposes. For the purpose of the issuance and payment of such bonds the hydro-electric generating facilities so acquired may be regarded as an independent electric system which, including the revenues thereof, may be pledged to the payment of such bonds without any pledge of the other electric facilities of such city or the revenues derived therefrom. Such acquisition may be effected through the purchase of such facilities or through the issuance of the bonds in exchange for such facilities, provided the same shall have been first authorized at an election held in accordance with the provisions of Article 1112 of the Revised Civil Statutes as amended.

Any city which shall so acquire hydro-electric generating facilities hereunder shall carry out the provisions of all contracts in existence at the time of such acquisition pursuant to which electric current generated by such facilities has been contracted to be sold, except as to any such contract which may be cancelled by voluntary agreement of the city and the party or parties entitled to purchase such electric current thereunder. Subject to the rights of the parties to any such existing contracts, any such city shall take for distribution by its distribution system such part of the output of the generating facilities so acquired as may be needed for that purpose, and may in the proceedings for the authorization of the bonds enter into such covenants for the use of and payment for such electric current from the revenues derived from the re-sale thereof as it may consider proper. Any electric current generated by such facilities which is not used by the city for distribution by its system to its consumers may be sold by the city to other purchasers and any such city is hereby empowered to enter into such short or long term contracts for such sale as it may deem advisable.

Sec. 2. The invalidity or ineffectiveness of any one or more provisions contained herein shall not affect the validity or enforceability of the remaining provisions hereof. Acts 1949, 51st Leg., p. 383, ch. 203.

Emergency. Effective May 14, 1949.

Section 3 of the Act of 1949, repealed all conflicting laws and parts of laws.

**CHAPTER TWELVE—COMMISSION FORM OF GOVERNMENT****Art. 1154. Petition for election; change to Aldermanic form**

Section 1. Whenever ten (10%) per cent of the qualified voters of any incorporated city or town having a population of over five hundred (500) and less than five thousand (5,000) inhabitants incorporated under the provisions of this title or any previous General Law, or hereafter incorporated under any General Law, or of any incorporated town or village

having a population of more than five hundred (500) and less than one thousand (1,000) inhabitants incorporated under Chapter 11, of this Title or any previous General Law, or hereafter incorporated under any General Law, shall petition in writing the Mayor of said city, town or village requesting that an election be ordered to determine whether such city, town or village shall adopt the Commission form of government, the Mayor shall order an election in such city, town or village, to determine whether or not the Commission form of government shall be adopted. Thirty (30) days notice of such election shall be given by publishing such notice in some newspaper therein if there be one, and if none, then by posting notices of same at three (3) public places in such town, city or village. Provided, that any city or town now or hereafter operating under the Commission form of government may adopt the Aldermanic form of government as provided in Article 977, Revised Civil Statutes of Texas, 1925, or other lawful form of government for such city or town when authorized to do so by a majority vote at an election called and held for the purpose. Such election shall be called and held under the same procedure provided for the adoption of the Commission form of government.

Sec. 1a. Provided however, that in the event of such election where a city changes from a Commission form to an Aldermanic form of government, the Mayor and two Commissioners shall continue in office as Mayor and Aldermen respectively for the remainder of their respective terms. Acts 1949, 51st Leg., p. 791, ch. 425.

Effective 90 days after July 6, 1949, date of adjournment.

Acts 1949, 51st Leg., p. 791, ch. 425, purported in its title to amend Article 1154.

The body of the Act contained no amending clause, but the Act repeated the provisions of Art. 1154 with additional provisions.

## CHAPTER THIRTEEN—HOME RULE

### Art. 1182c—1. Cities which have annexed territory within water control and improvement or supply districts

Section 1. This Act shall apply to all cities, including Home Rule Cities, and those operating under general laws or special charters, which have heretofore annexed, or hereafter may annex, all or any part of the territory within one (1) or more water control and improvement districts or fresh water supply districts, which districts were organized for the primary purpose of providing such municipal functions as the supply of fresh water for domestic or commercial uses, the furnishing of sanitary sewer service, garbage collection and disposal, or fire protection, any or all. Such cities shall succeed to the powers, duties, assets and obligations of such district or districts in the manner and to the extent hereinafter provided. The provisions of Chapter 128, Acts of the Fiftieth Legislature, Regular Session, 1947, as amended by this Act,<sup>1</sup> shall also be applicable to incorporated towns of the class hereinabove described. Nothing herein shall prohibit any city from continuing to operate utility facilities within such districts in which such facilities are owned and are operated by such city at the effective date of the annexation. This Act shall not apply in the case of any such district, the territory of which is now situated in more than one (1) incorporated city or town. As amended Acts 1949, 51st Leg., p. 387, ch. 206, § 1.

<sup>1</sup> This article.

**Taking over assets and liabilities; contracts**

Sec. 2. When all the territory within any such district is so annexed, such city shall take over all properties and assets, shall assume all debts, liabilities and obligations and shall perform all functions and services of such district, and after such annexation such district shall be abolished. The governing body of such city shall, by ordinance, designate the date upon which the city shall take over and such district shall be abolished, but in no event later than ninety (90) days after the effective date of such annexation.

When less than all of the territory within any such district is so annexed, the governing authorities of such city and district shall be authorized to enter into contracts in regard to the division and allocation of duplicate and overlapping powers, functions and duties between such agencies, and in regard to the use, management, control, purchase, conveyance, assumption and disposition of the properties, assets, debts, liabilities and obligations of such district. Any such district is expressly authorized to enter into agreements with such city for the operation of the district's utility systems and other properties by such city, and may provide for the transfer, conveyance or sale of such systems and properties of whatever kind and wherever situated (including properties outside the city) to such city upon such terms and conditions as may be mutually agreed upon by and between the governing bodies of such district and city. Such operating contracts may extend for such period of time not exceeding thirty (30) years as may be stipulated therein and shall be subject to amendment, renewal or termination by mutual consent of such governing bodies. No such contract shall contain any provision impairing the obligation of any existing contract of such city or district.

In the absence of such contract, such district shall be authorized to continue to exercise all the powers and functions which it was empowered to exercise and perform prior to such annexation, and the city shall not duplicate services rendered by the district within the district's boundaries without the district's consent, but may perform therein all other municipal functions in which the district is not engaged. As amended Acts 1949, 51st Leg., p. 387, ch. 206, § 1.

Amendment of 1949 to sections 1 and 2 of this article effective May 14, 1949.

Section 2 of the amendatory act of 1949, provided: "If any clause, phrase, sentence, paragraph, Section or provision of

this Act, or the application thereof to any particular person or thing, is held to be invalid, such invalidity shall not affect the remainder of this Act or the application thereof to any other person or thing."

**CHAPTER FOURTEEN—CITIES ON NAVIGABLE STREAMS****Art. 1187c. Municipal fish markets; bonds secured by pledge of properties****Refunding bonds; leases**

Sec. 7. Any city of the class described in Section 1 above, having outstanding municipal fish market revenue bonds may, by ordinance adopted by the governing body thereof, issue refunding bonds for the purpose of refunding all or any part of such outstanding bonds. Such refunding bonds shall be issued and the payment thereof secured in the same manner provided for the issuance of such original bonds, except that no election, notice or right of referendum shall be required. The governing body of such city shall be authorized to enter into lease contracts with persons, firms or corporations for the use of all or any part of the facilities of such municipal fish market and properties appurtenant

thereto for such period of time not exceeding twenty (20) years and upon such terms and conditions as such governing body shall deem proper; provided that authority to enter into such contracts shall be subject to the prior covenants and agreements relating to any outstanding revenue bonds issued for the purpose of acquiring such municipal fish market. Added Acts 1949, 51st Leg., p. 682, ch. 354, § 1.

Emergency. Effective June 10, 1949.

Section 2 of the amendatory Act of 1949 provided: "If any section, sentence, phrase or clause or any part of this Act, shall, for any reason, be held invalid, such invalidity shall not affect the remaining portions of this Act."

## CHAPTER SIXTEEN—CORPORATION COURT

Art. 1196(a). House rule cities; judge of corporation court [New].	Art. 1200c. Cities of 380,000 population [New].
---	--

### Art. 1196(a). Home rule cities; judge of corporation court

The Corporation Court in any city heretofore or hereafter incorporated, or adopting or amending its Charter, under Article 11, Section 5, of the Constitution of the State of Texas, commonly known and referred to as the "Home Rule Amendment", shall be presided over by a judge to be known as the "Recorder", "City Judge", or "Judge of the Corporation Court", as such official may be called in the charter of any city, and who shall be selected under the provisions of the City Charter concerning the election or appointment of the judge to preside over the Corporation Court.

All judges now holding office and presiding over any such Corporation Court in any such city and heretofore appointed or elected in accordance with the provisions of the Charter of such city are hereby declared to be the duly constituted, appointed or elected judge of such Court and shall hold office until his successor shall have been duly selected in accordance with the provisions hereof and shall have qualified according to law. Added Acts 1949, 51st Leg., p. 323, ch. 156, § 1.

Emergency. Effective May 13, 1949. Section 1 of the Act of 1949 provided that "Article 1196, Chapter 16, of the 1925 Revised Civil Statutes of the State of Texas, be and the same is hereby amended by adding to said chapter an article, following Article 1196, to read as follows." Section 2 repealed all conflicting laws and parts of laws.

### Art. 1200c. Cities of 380,000 population

#### Establishment; number; judges

Section 1. All incorporated cities of this State having a population in excess of three hundred and eighty thousand (380,000) according to the last preceding or any future United States Census may, by an ordinance legally adopted, provide for the establishment of two (2) or more corporation Courts, not to exceed five (5) in number. The Mayor of any such city shall have the power to appoint two (2) or more judges for each of such corporation Courts and designate the seniority of the judges, with the confirmation of the governing body of the city, so that any of such Courts may be in concurrent or continuous session, either day or night.

#### Jurisdiction

Sec. 2. Each of such corporation Courts, when established, shall have and exercise concurrent jurisdiction within the corporate limits of the city establishing them, and such jurisdiction shall be the same as is now or hereafter may be conferred upon all corporation Courts by the General Laws of this State.



**Ordinances, provisions of**

Sec. 3. The governing body of the city establishing such Courts may provide by ordinance:

(1) Prescribe the qualifications of the persons to be eligible to appointment as Recorder of said Court or Courts.

(2) That such Courts and the Recorders thereof may transfer cases from one Court to another, and that any Recorder of any of such Courts may exchange benches and preside over any of such Courts.

(3) That there shall be a corporation Court Clerk who shall be Clerk for all of such corporation Courts, together with such number of deputies as may be needed.

(4) That complaints shall be filed with such corporation Court Clerk in such manner as to provide for an equal distribution of cases among such Courts.

**Appeals**

Sec. 4. Except as modified by the terms of this Act, the procedure before such Courts and appeals therefrom shall be governed by the General Law applicable to all corporation Courts.

**Repeals**

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only, and this Act shall supersede any provisions of any special charters of cities which are contrary to the terms hereof.

**Partial invalidity**

Sec. 6. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, the validity of the remaining portions shall not be affected thereby, it being the intent of the Legislature in adopting this Act that no portion shall become inoperative by reason of the invalidity of any other portion. Acts 1949, 51st Leg., p. 493, ch. 269.

Emergency. Effective May 27, 1949.

**CHAPTER TWENTY-ONE—HOUSING**

Art.  
12697—1. Rent control [New].

**Art. 12697—1. Rent control**

Section 1. Rent control as established by the Act of the Eighty-first Congress of the United States, extending rent control for a period of fifteen (15) months from and after March 31, 1949, as further described in Housing and Rent Act of 1949, H.R. 1731,<sup>1</sup> is hereby abolished in the State of Texas and is declared to be no longer needed in the State of Texas, and all Federal rent controls are hereby declared no longer needed in the State of Texas.

Sec. 1a. It is further provided however that the governing body of any city or town may, by ordinance duly passed, finding that a housing emergency exists, establish rent control in such city or town for the duration of such housing emergency provided that the ordinance so passed is approved by the Governor of the State of Texas.

Sec. 2. If any part, Section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares

that it would have enacted, and does here now enact, such remaining portions despite any such invalidity. Acts 1949, 51st Leg., p. 879, ch. 472.

1 50 U.S.C.A. Appendix, §§ 1884 et seq.

Effective 90 days after July 6, 1949, date of adjournment.

## CHAPTER 22. CIVIL SERVICE [NEW]

### FIREMEN AND POLICEMEN

#### Art. 1269m. Firemen's and Policemen's Civil Service in cities over 10,000

##### Investigations and inspections

Sec. 5a. The Commission may make investigations concerning, and report upon all matters touching, the enforcement and effect of the provisions of this Act, and the rules and regulations prescribed hereunder; shall inspect all institutions, departments, offices, places, positions and employments affected by this Act at least once every year; and shall ascertain whether this Act and all such rules and regulations are being obeyed. Such investigations may be made by the Commission or by any Commissioner designated by the Commission for that purpose. In the course of such investigation the Commission or designated Commissioner shall have the power to administer oaths, subpoena and require the attendance of witnesses and the producing by them of books, papers, documents, and accounts pertaining to the investigation, and also to cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the court of original and unlimited jurisdiction to civil suits of the United States; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a magistrate in his judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this Section shall be deemed a violation of this Act, and punishable as such. Added Acts 1949, 51st Leg., p. 1114, ch. 572, § 1.

##### Classification of firemen and policemen

Sec. 8. The Commission shall provide for the classification of all firemen and policemen. Such classification shall be provided by ordinance of the City Council, or legislative body. Said City Council, or legislative body, shall prescribe by ordinance the number of positions of each classification.

No classification now in existence, or that may be hereafter created in such cities, shall ever be filled except by examination held in accordance with the provisions of this law. All persons in each classification shall be paid the same salary and in addition thereto be paid any longevity or seniority pay that he may be entitled to. This shall not prevent the Head of such Department from designating some person from the next lower classification to fill a position in a higher classification temporarily, but any such person so designated by the Head of the Department shall be paid the base salary of such higher position plus his own longevity pay during the time he performs the duties thereof. The temporary performance of the duties of any such position by a person who has not been promoted in accordance with the provisions of this Act shall never be construed to promote such person. All vacancies shall be filled by permanent appointment from eligibility lists furnished by the Commission within ninety (90) days after such vacancy occurs.

Firemen and policemen shall be classified as above provided, and shall be under civil service protection except the Chief or Head of such Fire Department or Police Department, by whatever name he may be known.

Said Chiefs or Department Heads shall be appointed by the Chief Executive, and confirmed by the City Council or legislative body except in cities where the Department Heads are elected. In those cities having elective Fire and Police Commissioners the appointments for Chiefs and Heads of those Departments shall be made by the respective Fire or Police Commissioners in whose Department the vacancy exists, and such appointments shall be confirmed by the City Council or legislative body. As amended Acts 1949, 51st Leg., p. 1114, ch. 572, § 2.

#### Examination for eligibility lists

Sec. 9. The Commission shall make provisions for open, competitive and free examinations for persons making proper application and meeting the requirements as herein prescribed. All eligibility lists for applicants for original positions in the Fire and Police Departments shall be created only as a result of such examinations, and no appointments shall ever be made for any position in such Departments except as a result of such examination, which shall be based on the applicant's knowledge of and qualifications for fire fighting and work in the Fire Department, or for police work and work in the Police Department, as shown by competitive examinations in the presence of all applicants for such position, and shall provide for thorough inquiry into the applicant's general education and mental ability.

An applicant who has served in the armed forces of the United States and who received an honorable discharge shall receive five (5) points in addition to his competitive grades.

Appropriate physical examinations shall be required of all applicants for beginning or promotional positions, and the examinations shall be given by a physician appointed by the Commission and paid by such city; and in the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians appointed by the Commission, but at the expense of the applicant, and whose findings shall be final. The age and physical requirements shall be set by the Commission in accordance with provisions of this law and shall be the same for all applicants. Provided no person shall be certified as eligible for a beginning position who is over the age of thirty-five (35).

All police officers and firemen coming under this Act must be able to intelligently read and write the English language. As amended Acts 1949, 51st Leg., p. 1114, ch. 572, § 3.

#### Promotions; filling vacancies

Sec. 14. The Commission shall make rules and regulations governing promotions and shall hold promotional examinations to provide eligibility lists for each classification in the Police and Fire Departments, which examinations shall be held substantially under the following requirements:

A. All promotional examinations shall be open to all policemen and firemen who have held a position for two (2) years or more in the classification immediately below in salary of that classification for which the examination is to be held; except where there is not a sufficient number of members in the next lower position with two (2) years service in that position to provide an adequate number of persons to take the examination, the Commission may extend the examination to the members in

the second lower position in salary to that for which the examination is to be held.

B. Each applicant shall be given one (1) point for each year of seniority in his Department, but never to exceed ten (10) points.

C. The Commission shall formulate proper procedure and rules for semi-annual efficiency reports and grade of each member of the Police or Fire Departments, which efficiency reports shall be made on each man by his immediate superior, and each efficiency report shall be based on thirty (30) points as the highest grade in efficiency. The immediate superior officer of each member, after completing such report, shall deliver the original and two copies, with suggestions for improvement and reasons for grade, to his immediate superior officer, who shall correct and approve the same and forward one copy to the member reported on, and forward the original and one copy to the Head of the Department who shall retain one copy and forward the original to the Commission for filing. Upon examination for promotion each applicant shall receive a credit of not to exceed thirty (30) points based on the average of his annual efficiency reports filed with the Commission from the effective date of this Act, but not to exceed two (2) years prior to the time of examination.

D. All applicants shall be given an identical examination in the presence of each other, and the questions asked therein shall be based upon the duties of the position sought and upon any study courses given by such Departmental Schools of Instruction and upon the applicant's efficiency; and each applicant shall, at his request made in writing within five (5) days thereafter, have the opportunity to examine the same together with the grading thereof and if dissatisfied shall, within five (5) days, appeal the same to the Commission for hearing in accordance with the provisions of this Act. No person shall be eligible for promotion unless he has served in such Department for at least two (2) years immediately preceding the date of such promotional examination in the next lower position or other positions specified by the Commission, and no person with less than four (4) years actual service in such Department shall be eligible for promotion to the rank of Captain.

No person shall be eligible for appointment as Chief or Head of the Fire or Police Department of any city coming under the provisions of this Act who has not been a bona fide fire fighter in a Fire Department or a bona fide law enforcement officer for five (5) years in the State of Texas.

E. Upon written request by the Heads of the Departments for a person to fill a vacancy in any classification, the Commission shall certify to the Head of the Department the three names having the highest grades on such eligibility list for such classification for the vacancy requested to be filled, and the Head of such Department shall appoint the person having the highest grade, except where such Head of the Department shall have a valid reason for not appointing such highest name; and in such cases he shall, immediately after such appointment, file his reasons in writing, for rejection of the higher name or names, with the Commission, which reasons shall be valid and subject to review by the Commission upon the application of such rejected person.

The name of each person on the eligibility lists shall be submitted to the Head of the Department three (3) times; and if passed over three (3) times with written reasons filed thereafter and not set aside by the Commission, he shall thereafter be dropped from the eligibility list. All eligibility lists shall remain in existence for one (1) year unless exhausted, and at the expiration of one (1) year they shall be destroyed and new examinations be given.

F. The Commission shall proceed to hold examinations to create eligibility lists within ninety (90) days after a vacancy in any classification occurs, or new positions are created, unless an eligibility list is in existence.

G. In the event any new classification is established either by name or by increase of salary, the same shall be filled by competitive examination in accordance with this law. As amended Acts 1949, 51st Leg., p. 1114, ch. 572, § 4.

**Purpose of law; hearings**

Sec. 16a. It is hereby declared that the purpose of the Firemen and Policemen's Civil Service Law is to secure to the cities affected thereby efficient Police and Fire Departments, composed of capable personnel, free from political influence, and with permanent tenure of employment as public servants. The members of the Civil Service Boards are hereby directed to administer the civil service law in accordance with this purpose; and when sitting as a board of appeals for a suspended or aggrieved employee, they are to conduct such hearing fairly and impartially under the provisions of this law, and are to render a fair and just decision, considering only the evidence presented before them in such hearing. Added Acts 1949, 51st Leg., p. 1114, ch. 572, § 5.

**Political activities; leaves of absence**

Firemen and Policemen coming under the provisions of this Act are not required to contribute to any political fund or render any political service to any person or party whatsoever; and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so; and any official of any city coming under the provisions of this Act who attempts the same shall be guilty of violating the provisions of this Act.

No fireman or policeman shall be refused reasonable leave of absence without pay for the purpose of attending any fire or police school, conventions, or meetings, the purpose of which is to secure more efficient departments and better working conditions for the personnel thereof, nor shall any rule ever be adopted affecting their constitutional right to appear before or petition the Legislature. Provided however, that no Civil Service Commission or governing body of any city shall further restrict the rights of employees of the Police and Fire Departments to engage in political activities except as herein expressly provided. Added Acts 1949, 51st Leg., p. 1114, ch. 572, § 6.

Amendment of 1949 effective 90 days after July 6, 1949, date of adjournment.

Section 7 of the amendatory Act of 1949, provided: "If any section, paragraph, portion, sentence, line, phrase, clause, or word of this Act should be held to be unconstitutional or invalid, then such unconstitutionality or invalidity shall not affect the constitutionality or validity of any other section, paragraph, portion, sen-

tence, line, phrase, or word hereof; and it is hereby declared to be the legislative intent that each and all of the said portions as above specified that are not held to be unconstitutional or invalid, shall be and remain in full force and effect, just as though said unconstitutional or invalid portions, if any, were eliminated from the text of this Act."

**TITLE 30—COMMISSION MERCHANTS****2. LIVE STOCK COMMISSION MERCHANTS****Art. 1287a. Live stock auction commission merchants****Record of vehicle in which transported**

Sec. 3a. In addition to the requirements set forth in Section 3 above and the other provisions of this Act, said Livestock Auction Commission Merchant shall keep a true and correct record of livestock received, sold or disposed of by him as follows:

1. On livestock received by him for the purpose of sale or other disposition he shall keep a record of the motor vehicle and the trailer or semi-trailer on which such livestock was transported to the place where such livestock is sold or to be sold by him; such record of such vehicle or vehicles to be on a form prescribed by the Livestock Sanitary Commission of Texas, which shall show the name of the owner of such vehicle or vehicles, name of the owner of the livestock transported thereon, and the name, make, and current highway registration number of such vehicle or vehicles. Such record must be prepared and made available by such Livestock Auction Commission Merchant for public inspection within twenty-four (24) hours after the receipt of any such livestock by him.

2. On livestock sold or otherwise disposed of by him he shall keep a record of the motor vehicle and the trailer or semi-trailer on which any such livestock was transported or removed from the place of sale; such record shall be on a form prescribed by the Livestock Sanitary Commission of Texas and shall show the name and address of the purchaser of such livestock, the destination thereof, the name and address of the owner of the vehicle or vehicles upon which said livestock is transported from said place of sale. Such record must be prepared and made available by such Livestock Auction Commission Merchant immediately after such livestock is sold and before such livestock is removed from the place of sale. He shall furnish the driver of the vehicle transporting such livestock away from the place of sale with a copy of such record and the driver of such vehicle shall keep the same in his possession while transporting such livestock away from such place of sale and shall exhibit such record to any peace officer or enforcement officer on demand.

3. The records to be made and kept as herein required shall be retained by such Livestock Auction Commission Merchant for at least one (1) year from the date thereof and shall be open to public inspection at all reasonable hours. Provided, however, that the records herein provided for shall not apply to a private sale in which the livestock of only one individual, partnership, firm, or corporation is offered for sale. Added Acts 1949, 51st Leg., p. 959, ch. 527, § 1.

**Violations of section 3a**

Sec. 3b. Any person who violates any of the provisions of Section 3a shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than Two Hundred Dollars (\$200). Added Acts 1949, 51st Leg., p. 959, ch. 527, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

### 3. AGRICULTURAL COMMODITIES, COMMISSION MERCHANTS, DEALERS, AND BROKERS

#### Art. 1287—1. General provisions; definitions

Sec. 4. No person shall act as a commission merchant, dealer, broker, or agent without having obtained a license as provided in this Act. Every person acting as a commission merchant, dealer, broker, or agent as herein defined, shall file an application with the commissioner for a license to transact the business of commission merchant, dealer, broker, and/or agent and such application shall be accompanied by the license fee herein provided for each specified class of business. Separate application shall be filed for each class of business.

Such application shall in each case state the full name of the person applying for such license, and if the applicant be a firm, partnership, corporation, or association of persons, the full name of each member of such firm, or the names of the officers of such corporation or association or company shall be given in the application. Such application shall further state the principal business address of the applicant in the State of Texas and elsewhere and the name or names of the person or persons authorized to receive and accept service of citation and legal notice of all kinds for the applicant. Such applicant shall further satisfy the Commissioner of his or its character, responsibility, and good faith in seeking to carry on the business stated in the application in the manner and form to be provided by the Commissioner.

In addition to the general requirements applicable to all classes of applications as in this Section set forth, the following requirements shall apply to the class of application noted:

(1) Commission Merchants: Each application shall include a schedule of commissions and charges for services, and such designated commissions and charges shall not be changed nor verified for the license period, except by written contract between the parties.

(2) Agents: Each application shall include such information as the Commissioner may consider proper or necessary, and shall include the name and address of applicant and the name and address of each commission merchant, dealer or broker represented or sought to be represented by said agent, and the written endorsement or nomination of such commission merchant, dealer, or broker. The Commissioner shall thereupon issue to such applicant a license entitling the applicant to conduct the business described in the application at the place named in the application for a year from the date thereof, or until the same shall have been revoked for cause. The Commissioner may also issue to each agent a card, or cards, which shall bear the signature of such agent and his principals, separate cards being required for each principal. Any agent shall show said card or cards upon the request of any interested person. Fraud or misrepresentation in making any application shall ipso facto work a revocation of any license granted thereunder. All indicia of the possession of a license shall be at all times the property of the State of Texas, and each licensee shall be entitled to the possession thereof only for the duration of said license.

For filing the applications herein described, each applicant must pay a fee as follows:

- (a) Commission merchants: Twenty-five Dollars (\$25) each year.
- (b) Dealers: Twenty-five Dollars (\$25) each year.
- (c) Brokers: Twenty-five Dollars (\$25) each year.
- (d) Agents: One Dollar (\$1) each year.

Any person who shall have been licensed as a commission merchant, shall, upon application, be licensed also as a dealer and/or as a broker as defined herein without payment of further fees, and shall thereupon conform to the parts of this Act regulating the business of a dealer and/or broker. Any person who has applied for and receives a license as a dealer or broker in the manner and upon payment of the fee herein set forth may apply for and secure a license as a commission merchant in addition to the license issued to him as such dealer or broker, without payment of further fee and upon further complying with those parts of this Chapter regulating the licensing of a commission merchant.

The Commissioner shall publish in pamphlet form at least once each calendar year and may publish as often as he thinks necessary a list of all licensed commission merchants, dealers, brokers, and agents, together with all necessary rules and regulations concerning the enforcement of this Act. Each licensed commission merchant, dealer, broker, or agent shall post his license, or a copy thereof, in his office or place of business in plain view of the public. All license fees collected under the provisions of this Act shall be paid into the State Treasury and shall be kept by the State Treasurer in a separate fund known as the "Citrus Fruit Inspection Fund," as created by House Bill No. 63, Acts, Fortieth Legislature, First Called Session, Page 240, as amended.<sup>1</sup> All salaries and other expenses incurred in the execution and enforcement of the provisions of this Act shall be paid out of said "Fund" by vouchers approved by the Commissioner of Agriculture and warrants issued thereon by the Comptroller. As amended Acts 1949, 51st Leg., p. 769, ch. 414, § 1.

<sup>1</sup> Vernon's Ann.P.C. art. 719a.

Emergency. Effective June 14, 1949.



## TITLE 32—CORPORATIONS—PRIVATE

## CHAPTER ONE—PURPOSES

Art.  
1302g. Airport and air terminal corpora-  
tions [New].

Art.  
1302h. Corporations to furnish services or  
perform duties in connection with  
oil and other wells [New].

## Art. 1302. 1121, 642, 566 Purposes

39a. To buy, sell, produce, store, transport and/or process fish, oysters, shrimp and other aquatic products, and the transaction of all business heretofore set out. Added Acts 1949, 51st Leg., p. 185, ch. 101, § 1.

Emergency. Effective May 3, 1949.

108. Corporations may be created for the purpose of owning, selling, repairing, leasing, or renting for hire and any other lawful purpose, phonographs, electrical music machines and coin operating vending machines used to dispense or vend merchandise, commodities, confections or music. Added Acts 1949, 51st Leg., p. 9, ch. 9, § 1.

Emergency. Effective March 3, 1949.

108. Private corporations may be formed for the purpose of owning, maintaining and operating scales to do weighing for the public in this State. Added Acts 1949, 51st Leg., p. 191, ch. 107, § 1.

Emergency. Effective May 3, 1949.

## Art. 1302g. Airport and air terminal corporations

Section 1. Corporations may be created to, or after being created may so amend their charters as to engage in the business of operating terminals for aircraft, with power to buy, construct, lease, own, operate and maintain airports and air terminals and to buy, construct, lease, own, operate, maintain and convey buildings, ramps, runways, hangers, fueling and fuel storage facilities, shops, beacons and navigation aids of all kinds, and to buy, lease, own, operate and hold real and personal property needed in the transaction of its business; to receive, purchase, hold, use, grant and convey such leases, rights, privileges, franchises and property and to exercise beyond the jurisdiction of the State such powers as may be granted or conferred upon it by other jurisdictions and to maintain offices and agents at all points where it is doing business. Acts 1949, 51st Leg., p. 483, ch. 260.

Emergency. Effective May 24, 1949.

## Title of Act:

An Act providing that corporations may be created to, or after being created may amend their charters so as to engage in

the business of operating terminals for aircraft; providing for additional powers; and declaring an emergency. Acts 1949, 51st Leg., p. 483, ch. 260.

## Art. 1302h. Corporations to furnish services or perform duties in connection with oil and other wells

Section 1. Corporations may be created for the purpose of furnishing any service or performing any duty with the use of any devices, tools, instruments or equipment, electrical, mechanical, or otherwise, or by means of any chemical, electrical, or mechanical process, in connection with the cementing of the casing seat of any well for the production of oil, gas, brine or other substances, the shooting or acidizing the formations of such wells, the treating of such wells, the surveying or testing

of the sands or other formations of the earth in any such wells, and the removal of scale from boilers, machines, pipe lines, and other mechanical equipment or apparatus and shall have power to buy and sell goods, wares or merchandise used in such business.

Sec. 2. If any section, clause, or phrase of this Act is held to be unconstitutional, such decision shall not affect the remaining portion of this Act. Acts 1949, 51st Leg., p. 834, ch. 452.

Effective 90 days after July 6, 1949, date of adjournment.

Section 3 repeals all conflicting laws and parts of laws.

### CHAPTER THREE—GENERAL PROVISIONS

#### Art. 1327a. Pensions and pension plans

Unless prohibited by the by-laws of the corporation, the directors shall have the power to pay pensions and to adopt, to amend, and to discontinue pension plans, including, but not limited to, the power to contract with insurance carriers with reference thereto, and the power to establish pension trusts. Acts 1949, 51st Leg., p. 108, ch. 64, § 1.

Emergency. Effective March 31, 1949.

### CHAPTER EIGHT—DISSOLUTION OF CORPORATIONS

Art.

1395a. Distribution portions of unknown stockholders [New].

#### Art. 1395a. Distributive portions of unknown stockholders

Section 1. Where, in the dissolution of a corporation and the distribution of its assets among its stockholders, a stockholder entitled to a distributive portion is unknown or cannot be found, the president and directors or the managers of the affairs of the corporation at the time of its dissolution, or the receiver, as the case may be, shall deposit or transfer such distributive portion to the State Treasury of the State of Texas and it shall be deemed to be escheated property. In the event distribution is made other than in cash, the president and directors or the managers of the affairs of the corporation at the time of its dissolution, or the receiver, as the case may be, shall determine the fair value of such distributive portion and shall either set aside from the assets of the corporation cash in an amount equal to such fair value and deposit such cash in the State Treasury, or shall cause such distributive portion to be sold for cash at not less than the fair value so determined in such manner as such president and directors or managers of the affairs of the corporation at the time of its dissolution, or the receiver, as the case may be, shall determine, and shall deposit such cash in the State Treasury. At the time of making any deposit with the State Treasury, as herein provided, the president and the directors or managers of the corporation's affairs, or the receiver, as the case may be, shall file with the State Treasurer a written report giving the name of the stockholder, if known, his last known address, the amount of the distributive portion and such other information as the State Treasurer may require. The State Treasurer, upon the receipt of any such deposit and the information herein provided for, shall forthwith cause to be published in one issue of a newspaper of general circulation in Travis County, Texas, a notice of the receipt of such deposit and the name of the stockholder entitled thereto, giving his last known address and the amount of the distributive por-

tion so deposited. The stockholder or other person entitled to an interest in any distributive portion deposited in the State Treasury, as herein provided, shall have the same rights with regard to the recovery of the same as are provided by law for claimants of escheated property, except that where a distributive portion has been reduced to cash, as hereinabove provided, the rights of the stockholder or other person entitled to an interest in such distributive portion shall be limited to the recovery of such moneys so deposited. If a distributive portion is not deposited in the State Treasury as herein provided, the president and directors of the corporation or the managers of its affairs, or the receiver, as the case may be, having control of the affairs of the corporation at the time of the dissolution shall be jointly and severally liable to the stockholder or other person entitled to an interest in a distributive portion for the amount of such portion not so deposited. Acts 1949, 51st Leg., p. 1122, ch. 576.

Emergency. Effective July 22, 1949.

**Title of Act:**

An Act relating to the disposition of the distributive portions of unknown stockholders upon the dissolution of domestic

corporations, and imposing liability for failure to observe the requirements of the Act; and declaring an emergency. Acts 1949, 51st Leg., p. 1122, ch. 576.

## CHAPTER TEN—PUBLIC UTILITIES

### 3. WATER

**Art.**

1433a. City or town laying pipes, etc., outside its limits [New].

### 4. GAS AND LIGHT

1436a. Construction of lines on and across roads and streets [New].

Telephone Cooperative Act, see art. 1528c.

### 8. MISCELLANEOUS PROVISIONS

[NEW]

1446a. Disruption of gas, electric or water service by picketing, threats or intimidation; injunction; damaging property; conspiracy.

### 3. WATER

#### Art. 1433. 1004-1282 Privileges

Any water corporation shall have the power to sell and furnish such quantities of water as may be required by the city, town or village where located for public or private buildings or for other purposes; and such corporation shall have the power to lay pipes, mains and conductors for conducting water through the streets, alleys, lanes and squares of any such city, town or village, with the consent of the governing body thereof, and under such regulations as it may prescribe. Such corporation is further authorized to lay its pipes, mains and conductors and other fixtures for conducting water through, under, along, across and over all public roads, streets and waters lying and situated outside the territorial limits of any such city, town, or village in such manner as not to incommode the public in the use of such roads, streets and waters. Any such corporation shall notify the State Highway Commission, or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right of way of any State Highway, or county road, outside the limits of an incorporated city or town, whereupon the Highway Commission, or the Commissioners Court may, if it so desires, designate the place along the right of way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such

corporation, at its own expense, to relocate its lines on a State Highway or county road outside the limits of an incorporated city or town, so as to permit the widening or changing of traffic lanes, by giving thirty (30) days written notice to such corporation and specifying the line or lines to be moved, and indicating the place on the new right of way where such line or lines may be placed. When deemed necessary to preserve the public health, any company or corporation chartered under the laws of this State for the purpose of constructing waterworks or furnishing water supply to any city or town, shall have the right of eminent domain to condemn private property necessary for the construction of supply reservoirs or standpipes for water work. As amended Acts 1949, 51st Leg., p. 1370, ch. 622, § 1.

Emergency. Effective July 26, 1949.

#### Art. 1433a. City or town laying pipes, etc., outside its limits

Any incorporated city or town, in addition to powers otherwise existing, is authorized to lay its pipes, mains and conductors and other fixtures for conducting water through, under, along, across and over all public roads and waters lying and situated outside the territorial limits of such city or town in such manner as not to incommode the public in the use of such roads. Any such city or town shall notify the State Highway Commission, or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right of way of any State Highway, or county road, outside the limits of an incorporated city or town, whereupon the Highway Commission, or the Commissioners Court may, if it so desires, designate the place along the right of way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such city or town, at its own expense, to relocate its lines on a State Highway or county road outside the limits of an incorporated city or town, so as to permit the widening or changing of traffic lanes, by giving thirty (30) days written notice to such city or town and specifying the line or lines to be moved, and indicating the place on the new right of way where such line or lines may be placed. Added Acts 1949, 51st Leg., p. 1370, ch. 622, § 1.

### 4. GAS AND LIGHT

#### Art. 1436a. Construction of lines on and across roads and streets

##### Corporations

Section 1. Corporations organized under the Electric Cooperative Corporation Act of this State, and all other corporations (including River Authorities created by the Legislature of this State) engaged in the generation, transmission and/or the distribution of electric energy in Texas and whose operations are subject to the Judicial and Legislative processes of this State, shall have the right to erect, construct, maintain and operate lines over, under, across, upon and along any State highway or county road in this State, except within the limits of an incorporated city or town; and to maintain and operate existing lines located on such highways and county roads; and to erect, maintain and operate lines over, across and along the streets, alleys and other public property in any incorporated city or town in this State, with the consent and under the direction of the governing body of such city or town. Except as modified or changed by ordinance or regulation in incorporated cities and towns, all lines for the transmission and distribution of electric energy, whether along highways or elsewhere, shall be constructed, operated and main-

tained, as to clearances, in accordance with the National Electrical Safety Code, as published in March, 1948, by the National Bureau of Standards, Handbook 30, provided that lines along highways and county roads shall be single pole construction, and provided that at any place where a transmission line crosses a highway or road it shall be at least twenty-two (22) feet above the surface of the traffic lane. Any such corporation shall notify the State Highway Commission, or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right-of-way of any State highway, or county road, outside the limits of an incorporated city or town, whereupon the Highway Commission, or the Commissioners Court, may, if it so desires, designate the place along the right-of-way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such corporation, at its own expense, to re-locate its lines on a State highway or county road outside the limits of an incorporated city or town, so as to permit the widening of the right-of-way, changing of traffic lanes, improvement of the road bed, or improvement of drainage ditches located on such right-of-way by giving thirty (30) days written notice to such corporation and specifying the line or lines to be moved, and indicating the place on the new right-of-way where such line or lines may be placed. In the event a State highway or county road on which lines have been built passes through or into an unincorporated city or town, which thereafter becomes an incorporated city or town, the corporation owning such lines shall continue to have the right to build, maintain and operate its lines along, across, upon and over the roads and streets within the corporate limits of such city or town for a period of ten (10) years from and after the date of such incorporation, but thereafter only with the consent of the governing body of such city or town, but this provision shall not be construed as prohibiting such city or town from levying taxes and such special charges for the use of the streets as are authorized by Article 7060, Revised Statutes of the State of Texas; and the governing body of such city or town may require any such corporation, at its own expense, to re-locate its poles and lines so as to permit the widening or straightening of streets, by giving to such corporation thirty (30) days notice and specifying the new location for such poles and lines along the right-of-way of such street or streets.

#### **Municipal plants and systems**

Sec. 1a. Any incorporated city or town in this State which owns and operates an electric generating plant or operates transmission lines and/or distribution system or systems shall have the right to erect, construct, maintain and operate lines over, under, across, upon and along any state highway or county road in this State, except within the limits of another incorporated city or town; and to maintain and operate existing lines located on such highways and county roads; and to erect, maintain and operate lines over, across and along the streets, alleys and other public property in any other incorporated city or town in this State with the acquiescence or consent and under the regulations of the governing body of such city or town. Except as modified or changed by ordinance or regulation in incorporated cities and towns, all lines for the transmission and distribution of electric energy, whether along highways or elsewhere, shall be constructed, operated and maintained in accordance with the National Electrical Safety Code, as published in March, 1948, by the National Bureau of Standards, Handbook 30, provided that lines along highways and county roads shall be single pole construction, and provided that at any place where a transmission line crosses a highway or road it

shall be at least twenty-two (22) feet above the surface of the traffic lane. Any such incorporated city or town authorized to build lines along highways and public roads under this Section shall notify the State Highway Commission or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right-of-way of any state highway, or county road, outside the limits of an incorporated city or town, whereupon the Highway Commission, or the Commissioners Court, may, if it so desires, designate the place along the right-of-way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such municipal corporation, at its own expense, to re-locate its lines on a State Highway or county road outside the limits of an incorporated city or town, so as to permit the widening of the right-of-way, changing of traffic lanes, improvement of the road bed, or improvement of drainage ditches located on such right-of-way, by giving thirty (30) days' written notice to such municipal corporation owning such lines, and specifying the line or lines to be moved, and indicating the place on the new right-of-way where such line or lines may be placed. In the event a State highway or county road on which lines have been built passes through or into an unincorporated city or town, which thereafter becomes an incorporated city or town, the municipal corporation owning such lines shall continue to have the right to build, maintain and operate its lines along, across, upon and over the roads and streets within the corporate limits of such city or town for a period of ten (10) years from and after the date of such incorporation, but thereafter only with the consent of the governing body of such city or town; and the governing body of such city or town may require the municipal corporation owning such lines, at its own expense, to relocate its poles and lines so as to permit the widening or straightening of streets, by giving to the municipal corporation owning such lines thirty (30) days notice and specifying the new location for such poles and lines along the right-of-way of such street or streets. Nothing herein shall be construed as granting the right to such municipal corporation to maintain existing lines in any area, which is included within the corporate limits of another city or town prior to the effective date of this act, without the consent of the governing body of such other city or town.

#### Partial invalidity

Sec. 3. If any section, sentence, phrase, clause, or any part of any section, sentence, phrase or clause of this Act shall, for any reason, be held invalid, such decision shall not affect the remaining portions of this Act and it is hereby declared to be the intention of this Legislature to have passed each section, sentence, phrase, clause or part thereof irrespective of the fact that any other section, sentence, phrase or clause or part thereof may be declared invalid. Acts 1949, 51st Leg., p. 427, ch. 228.

Effective May 20, 1949.

Section 2 of the act of 1949 provided that all statutes or parts of statutes in conflict with the provisions of this Act are hereby expressly repealed.

Section 4, declaring an emergency, recites that the distribution of electric en-

ergy has been based on the legal concept that Commissioners Courts had authority to grant franchises for the use of roads and highways, but that the Supreme Court has held that Commissioners Courts have no such authority.

## CHAPTER TWELVE—BRIDGES, FERRIES AND CAUSEWAYS

### Article 1466. Authority to build

Causeways, bridges and tunnels authorized in gulf coast counties of 50,000 or more, see art. 6795b—1.

## CHAPTER SEVENTEEN—TRUST COMPANIES AND INVESTMENTS

### Art. 1524a. Corporations for loaning money and dealing in bonds and securities without banking and discounting privileges; regulations

#### Annual publication or filing of statement of financial condition

Sec. 4. Such corporation that has sold in Texas its bonds, notes, certificates, debentures or other obligations, or is offering for sale in Texas its bonds, notes, certificates, debentures or other obligations, shall publish in some newspaper of general circulation in the county where it has its principal place of business, on or before the 1st day of February each year, a statement of its condition on the previous 31st day of December, in such form as may be required by the Banking Commissioner of Texas, showing under oath its assets and liabilities, and shall file a copy of such statement with the Banking Commissioner of Texas together with a fee of Twenty-five (\$25.00) Dollars for filing. Provided, however, that the Banking Commissioner may, for good cause shown, extend the time of publication and filing not more than sixty (60) days.

Such corporation that has not sold in Texas its bonds, notes, certificates, debentures or other obligations, and does not offer for sale or sell in Texas its bonds, notes, certificates, debentures or other obligations, shall file with the Banking Commissioner of Texas on or before the 1st day of February of each year a statement of its condition on the previous 31st day of December, in such form as may be required by the Banking Commissioner of Texas, showing under oath its assets and liabilities, together with a fee of Twenty-five (\$25.00) Dollars for filing; which report, when so filed, shall not be open to the public but shall be for the information of the Banking Commissioner and his employees. Provided, however, that the Banking Commissioner may, for good cause shown, extend the time of publication and filing not more than sixty (60) days. The Banking Commissioner, or his authorized assistants or representative, shall not make public the contents of said report, or any information derived therefrom, except in the course of some judicial proceedings in this State. As amended Acts 1949, 51st Leg., p. 673, ch. 345, § 1.

Emergency. Effective June 10, 1949.

## CHAPTER EIGHTEEN—MISCELLANEOUS

Art.

1528c. Telephone Cooperative Act [New].

### Art. 1528b. Electric Cooperative Corporation Act; Short Title

Construction of electric lines on and across roads and streets, see art. 1436a.

### Art. 1528c. Telephone Cooperative Act

#### Short title

Section 1. This Act may be cited as the "Telephone Cooperative Act."

**Definitions**

Sec. 2. In this Act, unless the context otherwise requires:

(1) "Corporation" means any corporation organized under this Act or which becomes subject to this Act in the manner hereinafter provided.

(2) "Member" means the incorporators of a corporation and each person thereafter lawfully admitted to membership therein.

(3) "Board" means a Board of Directors of a corporation organized under this Act.

(4) "Federal Agency" includes the United States of America and any department, administration, commission, board, bureau, office, establishment, agency, authority, or instrumentality of the United States of America heretofore or hereafter created.

(5) "Person" includes any natural person, firm, association, corporation, business trust, partnership, Federal agency, State or political subdivision thereof or any body politic.

(6) "Telephone service" means any communication service whereby voice communication through the use of electricity is the principal intended use thereof, and shall include all telephone lines, facilities or systems used in the rendition of such service.

(7) "Rural area" is defined to mean any area in this State which is located outside the boundaries of any incorporated or unincorporated city, town, or village having a population in excess of one thousand five hundred (1,500) inhabitants according to the last preceding Federal Census.

**Purpose**

Sec. 3. Cooperative, non-profit corporations may be organized under this Act for the purpose of furnishing telephone service in rural areas to the widest practicable number of users of such service; provided there shall be no duplication of service where reasonable adequate telephone service is available.

**Powers of corporation**

Sec. 4. Each corporation shall have power:

(1) To sue and be sued, complain and defend, in its corporate name;

(2) To have perpetual succession unless a limited period of duration is stated in its articles of incorporation;

(3) To adopt a corporate seal which may be altered at pleasure, and to use it, or a facsimile thereof, as required by law;

(4) To furnish, improve and expand telephone service to its members, to governmental agencies and political subdivisions, and to other persons not in excess of ten per centum (10%) of the number of its members, provided, however, that, without regard to said ten per centum (10%) limitation, telephone service may be made available by a corporation through interconnection of facilities to any number of subscribers of other telephone systems, and through pay stations to any number of users; and provided, further, that a corporation which acquires existing telephone facilities may continue service to persons, not in excess of forty per centum (40%) of the number of its members, who are already receiving service from such facilities without requiring such persons to become members but such persons may become members upon such terms as may be prescribed in the by-laws; provided there shall be no duplication of services where reasonably adequate telephone services are available.

(5) To construct, purchase, lease as lessee, or otherwise acquire, and to improve, expand, install, equip, maintain, and operate, and to sell, assign, convey, lease as lessor, mortgage, pledge, or otherwise dispose of or



encumber, telephone lines, facilities or systems, lands, buildings, structures, plants and equipment, exchanges, and any other real or personal property, tangible or intangible, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the corporation is organized; provided that no cooperative shall furnish local telephone exchange service within the boundaries of any incorporated or unincorporated city, town or village within this State having a population in excess of one thousand five hundred (1,500) inhabitants according to the last preceding Federal Census; provided further that this Subsection shall not be considered as a limitation or expansion of the provisions of Subsection (4) of Sec. 4.

(6) To connect and interconnect its telephone lines, facilities or systems with other telephone lines, facilities or systems;

(7) To make its facilities available to persons furnishing telephone service within or without this State;

(8) To purchase, lease as lessee, or otherwise acquire, and to use, and exercise and to sell, assign, convey, mortgage, pledge or otherwise dispose of or encumber, franchises, rights, privileges, licenses and easements;

(9) To issue membership certificates as hereinafter provided;

(10) To borrow money and otherwise contract indebtedness, and to issue or guarantee notes, bonds, and other evidences of indebtedness, and to secure the payment thereof by mortgage, pledge, or deed of trust of, or any other encumbrance upon, any or all of its real or personal property, assets, franchises, or revenues;

(11) To construct, maintain and operate telephone lines along, upon, under and across publicly owned lands and public thoroughfares, including all roads, highways, streets, alleys, bridges and causeways, subject, however, to the same restrictions and obligations required of electric transmission cooperatives in House Bill No. 393, Acts of the Fifty-first Legislature, Regular Session.

(12) To exercise the power of eminent domain in the manner provided by the laws of this State for the exercise of such power by other corporations constructing or operating telephone lines, facilities or systems.

(13) To conduct its business and exercise its powers within or without this State;

(14) To adopt, amend and repeal by-laws;

(15) To make any and all contracts necessary, convenient or appropriate for the full exercise of the powers herein granted; and

(16) To do and perform any other acts and things, and to have and exercise any other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the corporation is organized.

#### **Incorporators**

Sec. 5. Any three or more natural persons of the age of twenty-one (21) years or more, residents of this State, may act as incorporators of a corporation to be organized under this Act by executing articles of incorporation as hereinafter provided in this Act.

#### **Articles of incorporation**

Sec. 6. (a) The articles of incorporation shall recite that they are executed pursuant to this Act and such articles shall be signed by each incorporator and acknowledged by at least two (2) of the incorporators, or on their behalf, if they are cooperatives, and shall state:

(1) The name of the corporation, which name shall include the words "Telephone" and "Cooperative," and the abbreviation "Inc.". The name

of a corporation shall be distinct from the name of any other corporation organized under the laws of, or authorized to do business in, this State. The words "Telephone Cooperative" shall not be used in the corporate name of corporations organized under the laws of this State, or authorized to do business herein, other than those organized pursuant to the provisions of this Act;

(2) The purpose for which the corporation is formed;

(3) The names and addresses of the incorporators who shall serve as directors and manage the affairs of the corporation until its first annual meeting of members, or until their successors are elected and qualify;

(4) The number of directors, not less than five (5), to be elected at the annual meetings of members;

(5) The address of its principal office and the name and address of its agent upon whom process may be served;

(6) The period of duration of the corporation, which may be perpetual;

(7) The terms and conditions upon which persons shall be admitted to membership and retain membership in the corporation, but if expressly so stated the determination of such matters may be reserved to the directors by the by-laws; and

(8) Any provisions, not inconsistent with law, which the incorporators may choose to insert, for the regulation of the business and the conduct of the affairs of the corporation.

(b) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Act.

#### **Execution, filing, and recording of articles of incorporation**

Sec. 7. When the incorporators of any corporation shall furnish satisfactory evidence to the Secretary of State of a compliance with the provisions of this Act, said officer shall receive, file, and record the articles of incorporation of such corporation in his office, upon application and payment of all fees therefor, and give a certificate showing the recording of such articles and authority to do business thereunder. The articles shall thereupon be filed in the office of the Secretary of State, who shall record same at length in a book to be kept for that purpose, and retain the original on file in his office. A copy of the articles, or of the record thereof, certified under the Great Seal of the State, shall be evidence of the creation of the corporation. The existence of the corporation shall date from the filing of the articles in the office of the Secretary of State. The certificate of the Secretary of State shall be evidence of such filing.

#### **Renewal of articles of incorporation**

Sec. 8. Any corporation organized under this Act, whose articles of incorporation have expired by limitation, may revive such articles with all the privileges and immunities and rights of property, real and personal, exercised and held by it at the time of the expiration of its said articles, by filing with the consent of a majority of its members, new articles of incorporation under the provisions of this Act, reciting therein such original privileges, immunities, and rights of property, and by filing therewith a certified copy of such original expired articles.

#### **Organization meeting**

Sec. 9. After the issuance of the certificate of incorporation, an organization meeting shall be held, at the call of a majority of the incorporators, for the purpose of adopting by-laws and electing officers and for the transaction of such other business as may properly come before the

meeting. The incorporators calling the meeting shall give at least three (3) days' notice thereof by mail to each incorporator, which notice shall state the time and place of the meeting but such notice may be waived in writing.

#### By-laws

Sec. 10. The Board of Directors shall adopt the first by-laws of a corporation to be adopted following an incorporation, consolidation or amendment by an existing corporation of the Articles of Incorporation pursuant to Section 33 of this Act. Thereafter, the members shall adopt, amend or repeal the by-laws by the affirmative vote of a majority of those members voting thereon at a meeting of the members. The by-laws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

#### Qualification of members

Sec. 11. Each incorporator of a cooperative shall be a member thereof but no other person may become a member thereof unless such other person agrees to use telephone service furnished by the corporation when it is made available through its facilities. Membership in a corporation shall be evidenced by a certificate of membership which shall not be transferable, except as provided in the by-laws. The by-laws may prescribe additional qualifications and limitations in respect to membership. Membership certificates shall contain such provisions, consistent with this Act and the articles of incorporation of the corporation, as shall be prescribed by its by-laws. A corporation organized under this Act may become a member of another such corporation and may avail itself fully of the facilities and services thereof.

#### Meetings of members

Sec. 12. (a) An annual meeting of the members of a corporation shall be held at such time and place as shall be provided in the by-laws. Failure to hold the annual meeting at the designated time shall not work forfeiture or dissolution of the corporation.

(b) Special meetings of the members may be called by the president, by the Board of Directors, by any three (3) directors, or by not less than two hundred (200) members or ten per centum (10%) of all members, whichever shall be the lesser.

(c) Except as otherwise provided in this Act, written or printed notice stating the time and place of each meeting of the members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten (10) days nor more than twenty-five (25) days before the date of the meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail with postage prepaid addressed to the member at his address as it appears on the records of the corporation.

(d) Unless the by-laws prescribe the presence of a greater percentage or number of the members for a quorum, a quorum for the transaction of business at all meetings of the members of a corporation having not more than five hundred (500) members, shall be ten per centum (10%) of all members, present in person, and of a corporation having more than five hundred (500) members, shall be fifty (50) members or two per centum (2%) of all members, whichever is greater, present in person. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

(e) Each member present shall be entitled to one and only one vote on each matter submitted to a vote at a meeting of members, and voting shall be in person, but, if the by-laws so provide, may also be by mail.

**Waiver of notice**

Sec. 13. Any person entitled to notice of a meeting may waive such notice in writing either before or after such meeting. If any such person shall attend such meeting, such attendance shall constitute a waiver of notice of such meeting, unless such person participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

**Board of directors**

Sec. 14. (a) The business of a corporation shall be managed by a board of not less than five (5) directors, each of whom shall be a member of the corporation. The by-laws shall prescribe the number of directors, their qualifications, other than those prescribed in this Act, the manner of holding meetings of the Board of Directors and of electing successors to directors who shall resign, die, or otherwise be incapable of acting. The by-laws may also provide for the removal of directors from office and for the election of their successors. Directors shall not receive any salaries for their services as directors and, except in emergencies, shall not receive any salaries for their services in any other capacity without the approval of the members. The by-laws may, however, prescribe a fixed fee for attendance at each meeting of the Board of Directors and may provide for reimbursement of actual expenses of attendance.

(b) The directors of a corporation named in any articles of incorporation shall hold office until the next annual meeting of the members and until their successors are elected and qualify. At each annual meeting or, in the case of failure to hold the annual meeting as specified in the by-laws, at a special meeting called for that purpose, the members shall elect directors to hold office until the next annual meeting of the members, except as otherwise provided in this Act. Each director shall hold office for the term for which he is elected and until his successor is elected and qualifies.

(c) Instead of electing all the directors annually, the by-laws may provide that half of them, or a number as near thereto as possible, shall be elected to serve until the next annual meeting of the members and that the remaining directors shall be elected to serve until the second succeeding annual meeting. Thereafter, as directors' terms expire, the members shall elect their successors to serve until the second succeeding annual meeting after their election.

(d) A majority of the Board of Directors shall constitute a quorum.

(e) The Board of Directors may exercise all of the powers of a corporation not conferred upon the members by this Act, or its articles of incorporation or by-laws.

**Districts**

Sec. 15. The by-laws may provide for the division of the territory served or to be served by a corporation into two (2) or more districts for any purpose, including, without limitation, the nomination and election of directors and the election and functioning of district delegates. Such delegates, who shall be members, may nominate and elect directors. The by-laws shall prescribe the boundaries of the districts, or the manner of establishing such boundaries, and the manner of changing such boundaries, and the manner in which such districts shall function. No member at any district meeting and no district delegate at any meeting shall vote by proxy or by mail.

**Officers**

Sec. 16. The officers of a corporation shall consist of a president, vice-president, secretary and treasurer, who shall be elected annually by

and from the Board of Directors. When a person holding any such office ceases to be a director, he shall cease to hold such office. The offices of secretary and of treasurer may be held by the same person. The Board of Directors may also elect or appoint such other officers, agents, or employees as it deems necessary or advisable and shall prescribe their powers and duties. Any officer may be removed from office and his successor elected in the manner prescribed in the by-laws.

#### **Executive committee**

Sec. 17. Any corporation may, by its by-laws, provide for an executive committee to be elected from and by its Board of Directors. To such committee may be delegated the management of the current and ordinary business of the corporation, and such other duties as the by-laws may prescribe, but the designation of such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed upon it or him by this Act.

#### **Amendment of articles of incorporation**

Sec. 18. A corporation may amend its articles of incorporation by complying with the following requirements, provided however, that a change of location of principal office may be effected in the manner set forth in Section 19 of this Act: The proposed amendment shall be presented to a meeting of the members, the notice of which shall set forth or have attached thereto the proposed amendment. If the proposed amendment, with any changes, is approved by the affirmative vote of not less than two-thirds ( $2/3$ ) of those members voting hereon at such meeting, articles of amendment shall be executed and acknowledged on behalf of the corporation by its president or vice-president and its seal shall be affixed thereto and attested by its secretary. The articles of amendment shall recite that they are executed pursuant to this Act and shall state: (1) the name of the corporation; (2) the address of its principal office; and (3) the amendment to its articles of incorporation. The president or vice-president executing such articles of amendment shall make and annex thereto an affidavit stating that the provisions of this Section in respect of the amendment set forth in such articles were duly complied with. The articles of amendment shall be filed with the Secretary of State in the same manner as the original articles of incorporation, as provided in this Act.

#### **Change of the location of principal office**

Sec. 19. A corporation may, upon authorization of its Board of Directors or its members, change the location of its principal office by filing a certificate reciting such change of principal office, executed and acknowledged by its president or vice-president under its seal attested to by its secretary, in the office of the Secretary of State.

#### **Consolidation**

Sec. 20. (a) Any two or more corporations may enter into an agreement for the consolidation of such corporations. The agreement shall set forth the terms and conditions of the consolidation, the name of the proposed consolidated corporation, the number of its directors, not less than five (5), the time of the annual meeting and election, and the name of at least five (5) persons to be directors until the first annual meeting. If such agreement is approved by the votes of a majority of the members of each corporation at any regular meeting, or at any special meeting of its members called for that purpose, the directors named in the agreement shall sign and acknowledge as incorporators articles of consolidation con-

forming substantially to original articles of incorporation of a corporation organized under this Act.

(b) The articles of consolidation shall be executed, acknowledged, filed, and recorded in the same manner as the original articles of incorporation of a corporation organized under this Act. As soon as the Secretary of State shall have accepted the articles of consolidation for filing and recording and issued a certificate of consolidation, the proposed consolidated corporation, described in the articles under its designated name, shall be and become a body corporate, with all the powers of a corporation as originally organized hereunder. Provided that no consolidation shall be made for the purpose of duplicating the facilities of any other telephone company where such other telephone company is giving or is willing to give reasonable adequate telephone service.

#### **Dissolution**

Sec. 21. (a) Any corporation may be dissolved by majority vote of the members at any regular meeting, or at any special meeting of its members called for that purpose. A certificate of dissolution shall be signed by the president or vice-president and attested by the secretary, certifying to such dissolution and stating that they have been authorized to execute and file such certificate by votes cast in person or by proxy by a majority of the members of the corporation. A certificate of dissolution shall be executed, acknowledged, filed, and recorded in the same manner as the original articles of incorporation of a corporation organized under this Act and as soon as the Secretary of State shall have accepted the certificate of dissolution for filing and recording and issued a certificate of dissolution, the corporation shall be deemed to be dissolved.

(b) Such corporation shall, however, continue for the purpose of paying, satisfying, and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued in its corporate name. Any assets remaining after all liabilities or obligations of the corporation have been satisfied or discharged shall be distributed, first, to patrons for the pro rata return of all amounts standing to their credit by reason of their patronage, and, second, to members for the pro rata repayment of membership fees.

(c) Any corporation which purports to have been incorporated or re-incorporated under this Act but which has not complied with all of the requirements for legal corporate existence may nevertheless file a certificate of dissolution in the same manner as a validly existing corporation. The certificate of dissolution, in such case, may be authorized by a majority of the incorporators or directors at a meeting called by any incorporator upon ten (10) days' notice mailed to the last known post office address of each incorporator or director, and held at the principal office of the corporation named in the articles of incorporation.

#### **Non-profit operation**

Sec. 22. A corporation shall be operated on a non-profit basis for the mutual benefit of its members and patrons. The by-laws of a corporation or its contracts with members and patrons shall contain such provision relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its non-profit and cooperative character.

#### **Disposition of property**

Sec. 23. (a) The Board of Directors of a corporation shall have full power and authority, without authorization by the members thereof, to authorize the execution and delivery of a mortgage or mortgages or a

deed or deeds of trust of, or the pledging or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises and permits of the corporation, whether acquired or to be acquired, and wherever situated, as well as the revenues therefrom, all upon such terms and conditions as the Board of Directors shall determine, to secure any indebtedness of the corporation to the United States of America or any agency or instrumentality thereof. Any such mortgage or mortgages or deed or deeds of trust shall be exempt from mortgages recordation tax.

(b) A corporation may not otherwise sell, mortgage, lease or otherwise dispose of or encumber all or a substantial portion of its property unless such sale, mortgage, lease or other disposition or encumbrance is authorized by the affirmative vote of not less than two-thirds (2/3) of all the members of the corporation; provided, however, that notwithstanding any other provision of this Act, or any other provision of law, the Board of Directors may, upon the authorization of a majority of those members of the corporation present at a meeting of the members thereof, the notice of which shall have set forth the proposed action, sell, lease or otherwise dispose of all or a substantial portion of its property to another corporation or a foreign corporation doing business in this State pursuant to this Act or to the holder or holders of any notes, bonds or other evidences of indebtedness issued to the United States of America or any agency or instrumentality thereof.

#### **Non-liability of members for debts of corporation**

Sec. 24. No member shall be liable or responsible for any debts of the corporation and the property of the members and shareholders shall not be subject to execution therefor.

#### **Recordation of mortgages—effect thereof**

Sec. 25. Any mortgage, deed of trust or other instrument executed by a corporation or foreign corporation doing business in this State pursuant to this Act, which affects real and personal property and which is recorded in the real property records in any county in which such property is located or is to be located, shall have the same force and effect as if the mortgage, deed of trust or other instrument were also recorded, filed or indexed as provided by law in the proper office in such county as a mortgage of personal property. All after-acquired property of such corporation or foreign corporation described or referred to as being mortgaged or pledged in any such mortgage, deed of trust or other instrument, shall become subject to the lien thereof immediately upon the acquisition of such property by such corporation or foreign corporation, whether or not such property was in existence at the time of the execution of such mortgage, deed of trust or other instrument shall constitute notice and otherwise have the same effect with respect to such after-acquired property as it has under the laws relating to recordation, with respect to property owned by such corporation or foreign corporation at the time of the execution of such mortgage, deed of trust or other instrument and therein described or referred to as being mortgaged or pledged thereby. The lien upon personal property of any such mortgage, deed of trust or other instrument shall, after recordation thereof, continue in existence and of record for the period of time specified therein without the refileing thereof or the filing of any renewal certificate, affidavit or other supplemental information required by the laws relating to the renewal, maintenance or extension of liens upon personal property.

**Construction standards**

Sec. 26. Construction of telephone lines and facilities by a corporation shall, as a minimum requirement, comply with the standards of the National Electrical Safety Code in effect at the time of such construction.

**Directors, officers or members—notaries**

Sec. 27. No person who is authorized to take acknowledgments under the laws of this State shall be disqualified from taking acknowledgments of instruments executed in favor of a corporation or to which it is a party, by reason of being an officer, director, or member of such corporation.

**Fees**

Sec. 28. The Secretary of State shall charge and collect for:

- (a) Filing articles of incorporation, Ten Dollars (\$10);
- (b) Filing articles of amendment, Two Dollars and Fifty Cents (\$2.50);
- (c) Filing articles of consolidation, Ten Dollars (\$10);
- (d) Filing certificate of election to dissolve, Two Dollars and Fifty Cents (\$2.50);
- (e) Filing articles of dissolution, Two Dollars and Fifty Cents (\$2.50);
- (f) Filing certificate of change of principal office, Two Dollars and Fifty Cents (\$2.50).

**Exemption from excise taxes. License fee**

Sec. 29. Each corporation doing business in this State pursuant to this Act shall pay annually on or before the first day of July to the Secretary of State a fee of Ten Dollars (\$10), but shall be exempt from all other excise taxes.

**Connection and interconnection of facilities**

Sec. 30. Any corporation doing business in this State pursuant to this Act (such corporation being designated in this section as "applicant") shall have the right to require any person furnishing telephone service to the public in this State (such person being designated in this section as "company") to interconnect the company's lines, facilities or systems with, or otherwise make available such lines, facilities or systems to, the applicant's telephone lines, facilities or systems, in order to provide a continuous line of communication for the applicant's subscribers. The provisions of Articles 1426, 1427, 1430, 1431, and 1432 of the Revised Civil Statutes of Texas of 1925 may be enforced by or against any corporation created by virtue of this Act.

**Securities Act exemption**

Sec. 31. The provisions of the Texas Securities Act (Chapter 100, Acts, Forty-fourth Legislature, Regular Session)<sup>1</sup> shall not apply to any note, bond or other evidence of indebtedness issued by any corporation doing business in this State pursuant to this Act, to the United States of America or any agency or instrumentality thereof, or to any mortgage, deed of trust or other instrument executed to secure the same. The provisions of said Securities Act shall not apply to the issuance of membership certificates by any corporation or any such foreign corporation.

**Defectively organized corporations**

Sec. 32. In the event any corporation has filed defective articles of incorporation or has failed to do all things necessary to perfect its corpo-



rate organization, it may, nevertheless, file corrected articles of incorporation or amend the original articles and do and perform all acts and things necessary in the premises for the correction of such defects. The action so taken shall be valid and binding upon all persons concerned and the capacity of such corporation to file corrected articles of incorporation or amendments to the original articles, or to do and perform all acts and things necessary in the premises shall not be questioned.

**Act extended to existing corporations**

Sec. 33. Any existing cooperative or non-profit corporation or association, organized under any other law of this State, for the purpose of engaging in furnishing rural telephone service, may, by a majority vote of the members present in person or by proxy at a meeting called for that purpose, amend its articles of incorporation so as to comply with this Act.

**Separability of provisions**

Sec. 34. If any provision of this Act, or the application of such provision to any person or circumstance is held invalid, the remainder of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby. Acts 1950, 51st Leg., 1st C.S., p. 33, ch. 4.

<sup>1</sup> Art. 600a; Vernon's Ann.P.C. art. 1083a.  
Emergency. Effective March 1, 1950.

## TITLE 33—COUNTIES AND COUNTY SEATS

### CHAPTER THREE—CORPORATE RIGHTS AND POWERS

Art. 1581d. Airports; counties of 6141 to 6150 inhabitants [New].	Art. 1581e. Flood control, powers respecting inhabitants [New].
---	---

#### Art. 1577. 1370, 794, 681 Sale or lease of real estate

Section 1. The Commissioners Court may, by an order to be entered on its minutes, appoint a commissioner to sell and dispose of any real estate of the county at public auction. The deed of such commissioner, made in conformity to such order for and in behalf of the county, duly acknowledged and proven and recorded shall be sufficient to convey to the purchasers all the right, title, and interest and estate which the county may have in and to the premises to be conveyed. Nothing contained in this article shall authorize any Commissioners Court to dispose of any lands given, donated or granted to such county for the purpose of education in any other manner than shall be directed by law.

Sec. 2. In lieu of the procedure provided for in Section 1 of this Article, and as an alternative therefor, the Commissioners Court of any county in this State having a population in excess of forty-five thousand (45,000), according to the last preceding or any future Federal Census, which said county borders on the International Boundary between the United States of America and the Republic of Mexico, may elect, in the manner hereinafter provided for, to sell or lease any real estate, together with any improvements and appurtenances thereto, said procedure therefor to be governed by the following provisions:

(a) The Commissioners Court of any such county may, by an order passed and entered of record upon a vote of at least three (3) of the four (4) commissioners at any regular or special term of such Court, authorize the sale or lease of any real estate, together with any improvements and appurtenances thereto, now owned or hereafter owned by any such county; provided, that any such Commissioners Court shall, at the time of the passage of any such order, find and determine that such real estate is not needed or necessary to the use or public needs of such county; and provided further, that any such sale or lease of such real estate shall be made upon and for such consideration, terms and conditions as such Commissioners Court shall determine and provide in said order.

(b) The Commissioners Court of any such county may, within its discretion, and in like manner, authorize the sale or lease of any real estate and/or any improvements and appurtenances thereto, in any one or more tracts or in lots or parcels thereof, as may be now owned or hereafter owned by any such county, which real estate is now or may hereafter be embraced within, or is lying adjacent to, or is contiguous to, any county park through which a stream may flow or which county park is bounded by or embraces the whole or any part of any stream, lake, dam or reservoir; provided, that any such sale or lease of any such real estate is found and determined by the Commissioners Court of the county owning such real estate, and in which county any such county park is situated, to be in the public interest, and which sale or lease of real estate will not, within the discretion of any such Commissioners Court, be detrimental to the public use of any such county park.

(c) Any such sale or lease of real estate may, within the declared discretion of any such Commissioners Court, be made at public auction

or at private sale or lease, whichever method of any such sale or lease of any such real estate is found and deemed by any such Commissioners Court to be most advantageous to the best interest of such county.

(d) Whenever the sale or lease of any real estate is authorized by the Commissioners Court of any such county in the manner herein provided for, the County Judge of such county shall execute a deed, or lease, as the case may be, under the seal of the Commissioners Court, which deed or lease shall be made in conformity to such order of the Commissioners Court as hereinbefore provided, and attested by the County Clerk of such county, and duly acknowledged and proven under oath by said County Judge and County Clerk. Any such deed as so authorized and executed as herein provided shall be sufficient to convey to the purchaser or purchasers of said real estate all the right, title, interest and estate in and to the premises so conveyed as owned and possessed by such county conveying title to same; and, any lease of such real estate so authorized and executed as provided in this Act, shall vest in the lessee or lessees thereof the use and benefit of such premises so leased, in accordance with the terms, conditions and stipulations contained in any such lease, as may be authorized by the Commissioners Court; provided, that no such lease of real estate shall confer upon any lessee or lessees any right to re-lease or rent or subordinate such lease without the specific authorization of the Commissioners Court granting the original lease by order of such Commissioners Court.

(e) It is expressly provided in this Act that the proceeds of any funds from any sale or lease of any real estate which may be embraced within the boundaries of any county park, shall be utilized and expended by the Commissioners Court of such county owning such county park, exclusively for the acquisition or purchase, and/or improvement, operation and maintenance of the county park or parks within such county in which such proceeds of sale or lease shall originate.

(f) No provisions hereof shall authorize any Commissioners Court of any such county to sell or alienate any lands given or donated or granted to any county for the purpose of education, in any manner other than that which is or shall be directed by law. As amended Acts 1949, 51st Leg., p. 904, ch. 485, § 1.

Emergency. Effective June 30, 1949.

Sections 2-4 of the amendatory act of 1949 read as follows:

"Sec. 2. This Act shall be cumulative of all laws and parts of laws of this State upon the subject matter of this Act, when not in conflict with the provisions of this Act, and, in case of any such conflict herewith, in whole or in part, the provisions of this Act shall be effective and shall take precedence and control.

"Sec. 3. All laws and parts of laws of this State which are in conflict with the provisions of this Act are hereby specifically repealed only in so far as such laws or parts of such laws are in conflict with the provisions of this Act.

"Sec. 4. In the event any Section, provision, clause, phrase, sentence or word, or parts thereof, contained in this Act should be declared unconstitutional or invalid or inoperative, then such holding or construction shall not affect the validity or application of the remaining Sections, provisions and portions of this Act, but all the remaining Sections, provisions and portions of this Act shall remain in full force and effect and shall be construed and enforced as if any such invalid, unconstitutional or inoperative provisions had not been contained herein."

### Art. 1580. 1373, 797, 684 Agents to contract for county

Counties of 140,000 to 290,000

Acts 1939, 46th Leg., Spec. L., p. 602, § 1, as amended Acts 1949, 51st Leg., p. 713, ch. 376, § 1 read as follows:

"Section 1. In all counties of this State having a population of more than one hun-

dred and forty thousand (140,000) inhabitants according to the last preceding Federal Census, General or Special, a majority of a Board composed of the Judges of the District Courts and the County Judge of such county, shall appoint a

suitable person who shall act as the County Purchasing Agent for such county, who shall hold office, unless removed by said Judges, for a period of two (2) years, or until his successor is appointed and qualified, who shall execute a bond in the sum of Five Thousand Dollars (\$5,000), payable to said county, for the faithful performance of his duties. It shall be the duty of such Agent to make all purchases for such county of all supplies, materials and equipment required or used by such county or by a subdivision, officer, or employee thereof, excepting such purchases as may by law be required to be made by competitive bid, and to contract for all repairs to property used by such county, its subdivisions, officers, and employees, except such as by law are required to be contracted for by competitive bid. All purchases made by such Agent shall be paid for by warrants drawn by the County Auditor on the County Treasurer of such county as in the manner now provided by law.

"It shall be unlawful for any person, firm or corporation, other than such Purchasing Agent, to purchase any supplies, materials and equipment for, or to contract for any repairs to property used by, such county or subdivision, officer, or employee thereof, and no warrant shall be drawn by the County Auditor or honored by the County Treasurer of any such county for any purchases except by such Agent and those made by competitive bid as now provided by law. On the first day of July of each year such Purchasing Agent shall file with the County Auditor and each of said Judges of such county an inventory of all property of the county and of each subdivision, officer, or employee thereof then on hand, and it shall be the duty of the County Auditor to carefully examine such inventory and to make an accounting for all property purchased or previously inventoried and not appearing in

such inventory. In order to prevent unnecessary purchases, such Agent shall have authority and it shall be his duty to transfer county supplies, materials, and equipment from any subdivision, department, officer, or employee of the county when such supplies, materials, or equipment are not actually needed or used by such subdivision, department, officer, or employee to any such subdivision, department, officer, or employee that may require such supplies and materials, or the use of such equipment; and such Agent shall furnish to the County Auditor a list of such supplies, materials, and equipment so transferred. Such Agent shall receive as compensation for his services a salary of not less than Thirty-six Hundred Dollars (\$3600) per year, nor more than Six Thousand Dollars (\$6,000) per year, payable in equal monthly installments. Eighty per cent (80%) of such salary shall be paid out of the Road and Bridge Fund and twenty per cent (20%) out of the General Fund of such county, by warrant drawn on the County Treasurer by the County Auditor. Said Agent shall have one assistant who shall receive as compensation for his services a salary of not less than Twenty-four Hundred Dollars (\$2400) per year nor more than Three Thousand Dollars (\$3,000) per year, payable in equal monthly installments. Said Agent and said assistant may have such help, equipment, supplies and traveling expenses with the approval of said Board of Judges, as they may deem advisable, the amount of said expenses to be approved by said Board." As amended Acts 1949, 51st Leg., p. 713, ch. 376, § 1.

"Sec. 1A. The provisions of this Act shall apply only to those counties where the responsibility for appointing the Purchasing Agent is vested in the several District Judges and the County Judge of said county or counties, acting as a Board. Acts 1949, 51st Leg., p. 713, ch. 376, § 1A."

#### Art. 1581d. Airports; counties of 6141 to 6150 inhabitants

Section 1. All counties in this State having a population of not less than six thousand one hundred forty-one (6,141) and not more than six thousand one hundred fifty (6,150) inhabitants according to the last preceding Federal Census, and having an assessed valuation of not less than Twenty-one Million (\$21,000,000.00) Dollars according to the last approved tax rolls, are hereby authorized to acquire by purchase or otherwise an airport not to exceed six hundred forty (640) acres in area to be located not more than five (5) miles from the heaviest populated area in the county.

Sec. 2. Each county acquiring land to be used for an airport under the provisions of this Act may acquire such land to be used for airport purposes without the acquisition of any or all mineral interest thereunder.

Sec. 3. No airport acquired under this Act shall be located on any land which is owned by the State of Texas or in which the State of Texas has any interest, mineral or otherwise.

Sec. 4. If any provision of this Act shall be held invalid, such invalidity shall not affect the remaining provisions; and the Legislature hereby declares that it would have enacted such remaining portion despite such invalidity. Acts 1949, 51st Leg., p. 611, ch. 326.

Emergency. Effective June 7, 1949.

#### Art. 1581e. Flood control, powers respecting

Section 1. All counties in this State shall have the right of eminent domain to condemn and acquire real property and easements and right-of-ways over and through all public and private lands for the making and digging of canals, drains, levees and improvements in the county for flood control purposes and for drainage as related to flood control, and for providing necessary outlets for waters in such counties. No appeal from the finding and assessment of damages by the Special Commissioners appointed for that purpose shall suspend the work for which the land, right-of-way, easement, or other property is acquired. Where, in the judgment of the Commissioners Court, the acquisition of the fee in the land is necessary, condemnation of the fee title may be had; provided, however, that the counties shall not have authority to condemn the fee of, as distinguished from an easement or right-of-way over, across or upon, any property lawfully used or occupied by any public utility, railroad, canal, levee or other person, concern, corporation or body politic devoting its property to a public use.

Sec. 2. The proceedings with respect to condemning lands or interests therein, or other property, for the uses above specified shall be controlled by the statutes regulating such proceedings by counties in other cases, as provided in Article 3264, Revised Statutes of Texas, 1925, et seq.

Sec. 3. The Commissioners Court of any county in this State may contract and agree with any other county, political subdivision, governmental unit, or municipal corporation for the joint acquisition of right-of-ways, or joint construction or maintenance of canals, drains, levees and other improvements for flood control, and drainage as related to flood control, and for making necessary outlets, and maintaining them. Such contracts shall contain such terms, provisions and details as the governing bodies of the respective political subdivisions shall determine to be necessary under all of the facts and circumstances, and may provide that such works may be maintained jointly, or by either one (1) of such political subdivisions, under its exclusive direction and control, with such contributions toward the expense of such maintenance as the other county or political subdivision may agree to make.

Sec. 3a. Where, in the opinion of the Court, it becomes necessary to condemn an easement, as against persons who also have the power of eminent domain, all expenses involved in the acquisition, construction, and maintenance of the flood control or drainage project shall be the obligation of the county, flood control district or drainage district, as the case may be. Acts 1949, 51st Leg., p. 759, ch. 407.

Emergency. Effective June 14, 1949.

### CHAPTER FOUR—COUNTY LINES

#### Art. 1583. 1376, 800 Marking boundary

Compensation of firemen and policemen in certain cities, see Vernon's Ann.P.C. art. 1583—2.

## TITLE 34—COUNTY FINANCES

### 2. COUNTY AUDITOR

Art.  
1646b. Joint employment of county auditor  
in counties under 25,000 popula-  
tion [New].

### 2. COUNTY AUDITOR

**Art. 1645. 1460 Appointment of county auditor in certain counties; compensation; duties**

In any county having a population of thirty-five thousand (35,000) inhabitants, or over, according to the last preceding Federal Census, or having a tax valuation of Fifteen Million Dollars (\$15,000,000) or over, according to the last approved tax roll, there shall be biennially appointed an Auditor of accounts and finances, the title of said officer to be County Auditor, who shall hold his office for two (2) years and who shall receive as compensation for his services to the county as such County Auditor, an annual salary from county funds of not more than the annual salary allowed or paid the Assessor and Collector of Taxes in his county, and not less than the annual salary allowed such County Auditor under the General Law provided in Article 1645, Revised Civil Statutes, as said Article existed on January 1, 1940, such salary of the County Auditor to be fixed and determined by the District Judge or District Judges making such appointment and having jurisdiction in the county, a majority ruling, said annual salary to be paid monthly out of the general fund of the county. The action of said District Judge or District Judges in determining and fixing the salary of such County Auditor shall be made by order and recorded in the minutes of the District Court of the county, and the Clerk thereof shall certify the same for observance to the Commissioners Court, which shall cause the same to be recorded in its minutes; after the salary of the County Auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county. Provided, however, any increase in the salary of any such County Auditor, over and above the annual salary allowed such County Auditor under the General Law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the Commissioners Court of the county whose County Auditor is affected or may be affected by the provisions of this Act; such consent and approval of such Commissioners Court shall be made by order of such Court and recorded in the minutes of the Commissioners Court of such county. As amended Acts 1949, 51st Leg., p. 1068, ch. 552, § 1.

Emergency. Effective June 24, 1949.

Sections 2-4 of the act of 1949 read as follows:

"Sec. 2. All laws or parts of laws which are in conflict herewith are hereby repealed to the extent of such conflict, and, particularly House Bill No. 793, passed by the Fifty-first Legislature of Texas, Regular Session, 1949 [ch. 341, amending this article] and that portion of Senate Bill No. 246, passed by the Forty-ninth Legislature, Regular Session, Acts of 1945, Chapter 312, page 510 (Vernon's Civil Stat-

utes, Article 3912e-9, Section 2) setting the compensation of County Auditors is hereby expressly repealed; provided, however, that this Act shall not in any way repeal or affect Senate Bill No. 173, passed at the Regular Session of the Forty-seventh Legislature, 1941, and provided, further that this Act shall not repeal or affect Sections 1 and 2, Chapter 81, Acts of the Regular Session of the Forty-fifth Legislature, 1937, page 151 or Article 1672, Revised Civil Statutes of 1925, or Article 8245, Revised Civil Statutes of 1925, as

amended by Section 1 of Chapter 119, Acts of the Regular Session, Forty-fourth Legislature.

"Sec. 3. This Act shall not apply in any county in Texas having a population of not less than ten thousand, four hundred (10,400) nor more than eleven thousand (11,000), according to the Federal Census of 1940.

"Sec. 4. It is hereby declared to be the legislative intent that if any sentence or

part of this Act shall be held to be invalid or unconstitutional, such invalidity shall not be held to affect the validity or constitutionality of any other sentence or part of this Act."

Acts 1949, 51st Leg., ch. 341, § 2 repealed Acts 1941, 47th Leg., p. 229, ch. 160, which also amended this article. Chapter 341, as above shown, was itself repealed by Acts 1949, p. 1068, ch. 552.

#### Art. 1645a—1. County auditors in certain counties to act as purchasing agents; compensation

Section 1. That in all counties having a population of not less than twenty-four thousand, one hundred twenty-five (24,125) nor more than twenty-four thousand, one hundred fifty (24,150), according to the last preceding Federal Census, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for the county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent the sum of Six Hundred (\$600.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addition to that allowed by law for such Auditor, and to be payable out of the General Revenue of such county. Provided that in all counties having a population of not less than forty-three thousand (43,000) and not more than forty-three thousand, one hundred (43,100) according to the last preceding Federal Census, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for the county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent the sum of Six Hundred (\$600.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addition to that allowed by law for such Auditor, and to be payable out of the General Revenue of such county. Provided further, that in all counties having a population in excess of sixty-five thousand (65,000) inhabitants according to the last preceding Federal Census, and having a tax valuation of not more than Forty Million (\$40,000,000.00) Dollars according to the last approved tax rolls, and containing at least two incorporated cities of more than thirteen thousand, five hundred (13,500) population each, according to the last preceding Federal Census, such Auditor shall, in addition to his regular duties as Auditor, constitute the Purchasing Agent of such county when so directed by order of the Commissioners Court of such county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent a sum not to exceed Nine Hundred (\$900.00) Dollars annually, payable in twelve (12) equal monthly installments, and such compensation shall be in addition to that allowed by law for such Auditor, and payable out of the General Revenue of such county.

Sec. 2. That in all counties having a population of not less than ninety thousand (90,000) inhabitants nor more than two hundred twenty-five thousand (225,000) inhabitants according to the last preceding Federal Census, and having a tax valuation of not less than One Hundred Twenty Million (\$120,000,000.00) Dollars and not more than One Hundred Fifty Million (\$150,000,000.00) Dollars, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for such county when so directed by order of the Commissioners Court of such county, and such

Auditor shall receive as compensation for such additional services as Purchasing Agent a sum not to exceed One Thousand Five Hundred (\$1,500.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addition to that allowed by law for such Auditor, and to be payable out of the General Revenue of such county. As amended Acts 1949, 51st Leg., p. 680, ch. 353, § 1.

Emergency. Effective June 10, 1949.

**Art. 1645a—5. Auditors in counties of 33,200 to 33,600**

Auditors in counties of thirty-three thousand, two hundred (33,200) to thirty-three thousand, six hundred (33,600).

In every county in this State having a population of not less than thirty-three thousand, two hundred (33,200) and not more than thirty-three thousand, six hundred (33,600), according to the last preceding Federal Census, the District Judge having jurisdiction in such county shall, if such reason be good and sufficient, appoint a County Auditor as provided in Article 1646, of the Revised Civil Statutes of Texas, of 1925, and said Auditor shall receive a salary of not less than Three Thousand Dollars (\$3,000) nor more than Thirty-six Hundred Dollars (\$3600) per year, and same shall be paid in the same manner as other county officers are paid in said counties. As amended Acts 1949, 51st Leg., p. 941, ch. 515, § 1.

Emergency. Effective June 29, 1949.

**Art. 1645a—7. Abolition of office of county auditor in counties of 25,500 to 25,610**

Acts 1949, 51st Leg., p. 1068, ch. 52, § 2, provides that nothing in that act, which amends art. 1645, shall affect this article.

Saved from repeal, see note to art. 1645.

**Art. 1646b. Joint employment of county auditor in counties under 25,000 population**

Section 1. The Commissioners Court of any county under twenty-five thousand (25,000) population according to the last United States Census may make an arrangement or agreement with one or more other such counties whereby all counties, parties to the arrangement or agreement, may jointly employ and compensate an auditor for said counties, respectively.

After such agreement or arrangement has been entered into by and between the Commissioners Courts of said counties, and they shall have determined that an auditor is a public necessity in the disposition of county business, and shall have entered an order upon the minutes of the Courts to that effect, they shall cause said orders to be certified to the District Judge or District Judges having jurisdiction in the respective counties. Said Judge or Judges shall, if said orders be considered good and sufficient, appoint a qualified person who shall act as county auditor for each of said counties. Such auditor shall qualify and perform all of the duties required of county auditors by the laws of this State, and in addition to the regular duties performed by him as required by law, shall act as purchasing agent for each of said counties.

Such county auditor shall be appointed for a term of two years from and after such appointment. The annual salary to be paid such county auditor by each county, shall be fixed by the District Judge or District Judges at a sum not in excess of Three Thousand (\$3,000.00) Dollars



for each county. Provided, that where such county auditor serves more than two counties under such arrangement or agreement, his total annual compensation shall not exceed Seven Thousand Five Hundred (\$7,500.00) Dollars from all of said counties. Such annual salary shall be paid out of the General Fund of the counties in twelve equal monthly payments.

The action of the District Judge or District Judges in making such appointment and in determining and fixing the salary of the county auditor shall be made by order entered and recorded in the minutes of the District Courts of the counties entering into such arrangement or agreement, and the District Clerk of said counties shall certify the same for observance to the Commissioners Courts of said counties which shall cause the same to be recorded in their minutes. Provided, said District Judge or District Judges shall have the power to discontinue the services of the county auditor at any time after the expiration of one year from his appointment when in their opinion such county auditor is no longer a public necessity and his services are not commensurate with his salary. In all matters herein required to be done by the District Judges a majority action shall control.

Sec. 2. The provisions of this law shall be cumulative of all other provisions of the laws pertaining to county auditors. Acts 1949, 51st Leg., p. 414, ch. 221.

Emergency. Effective May 18, 1949.

#### **Art. 1672. Improvement districts: compensation**

Saved from repeal, see note to art. 1645.

Acts 1949, 51st Leg., p. 1068, ch. 52, § 2, provides that nothing in that act, which amends art. 1645, shall affect this article.

## TITLE 35—COUNTY LIBRARIES

### 2. LAW LIBRARY

Art.  
 1702b—6. Repealed.  
 1702e. Law libraries in counties of 30,000  
 to 250,000 [New].

Art.  
 1702f. Law libraries in counties of 27,000  
 located in two judicial districts  
 of four counties only [New].  
 1702g. Law libraries in counties of 29,500  
 to 30,000 [New].

### 2. LAW LIBRARY

**Art. 1702b—6. Repealed. Acts 1949, 51st Leg., p. 98, ch. 58, § 4. Eff. March 28, 1949**

Article derived from Acts 1947, 50th Leg., p. 764, ch. 377, related to law libraries in counties of 145,000 to 250,000.

**Art. 1702e. Law libraries in counties of 30,000 to 250,000**

**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 two hundred and fifty thousand (250,000) inhabitants, according to the last preceding or any future Federal Census, and in which there is located a Court of Civil Appeals, shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a County Law Library.

**Sec. 2.** For the purpose of establishing County Law Libraries after the entry of such order, there shall be taxed, collected, and paid as other costs, the sum of One Dollar (\$1) in each 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 1949, 51st Leg., p. 98, ch. 58.

**Emergency.** Effective March 28, 1949.

Section 4 of this act repeals art. 1702b—6.

**Title of Act:**

An Act authorizing Commissioners Courts in counties having a population of not less than thirty thousand (30,000) nor more than two hundred and fifty thousand (250,000) inhabitants, according to the last preceding or any future Federal Census, and in which there is located a Court of Civil Appeals, to provide for, maintain and es-

tablish a County Law Library; providing for the taxing of costs in civil cases, with certain exceptions, to provide a fund for such Libraries and for administration of such fund; granting authority to said Courts to make rules for use of said Libraries; repealing Chapter 377, Acts of the Fiftieth Legislature, 1947, and Article 1702b—6 of Vernon's Civil Annotated Texas Statutes; and declaring an emergency. Acts 1949, 51st Leg., p. 98, ch. 58.

**Art. 1702f. Law libraries in counties of 27,000 located in two judicial districts of four counties only**

**Section 1.** The Commissioners Courts of any county in the State which is located in two (2) judicial districts only, each of which said

judicial districts is composed of four (4) counties only, which said county has a population in excess of twenty-seven thousand (27,000) persons, according to the last or any future Federal Census, shall have the power to establish, maintain and operate a law library in said county.

Sec. 2. The Commissioners Court of any such county may establish and provide for the maintenance of such county law library on its own initiative, and appropriate the sum of Twenty Thousand Dollars (\$20,000) or such part thereof as it may deem necessary, to establish properly such library, and shall appropriate each year such sum as may be necessary to properly maintain and operate such county law library, which shall be established, maintained and operated at the county seat.

Sec. 3. Upon the establishment of a county law library the Commissioners Court shall employ a custodian or custodians of such library and shall require such custodians to execute and deliver a bond or bonds in such sum as may be fixed by such court payable to the County Judge, and his successors in office, of such county, and conditioned upon the faithful performance of his duties by the principal obligor. Such custodians shall receive such compensation as may be fixed by the Commissioners Court.

Sec. 4. The Commissioners Court shall have power to make all rules and regulations necessary or proper for the establishment, maintenance, operation and use of said library not in conflict with the Constitution and laws of this State.

Sec. 5. The Commissioners Court of any such county is hereby authorized and empowered to receive on behalf of such county any gift or bequest for such county law library. The title to all of such property shall be vested in the county. Where any gift or bequest is made with certain conditions, and accepted by the county, these conditions shall be administered as designated by the donor.

Sec. 6. All funds of the county law library shall be in the custody of the County Treasurer of such county, or other official who may discharge the duties commonly delegated to county treasurers. They shall constitute a separate fund and shall not be used for any other purpose than those of such county law library. Each claim against the county law library shall be acted upon and allowed or rejected in like manner as other claims against the county.

Sec. 7. In case any section or part thereof in this Act is found unconstitutional or invalid for any reason, such invalid section or part thereof shall in no manner be held to affect any other section or portions of said Act. Acts 1949, 51st Leg., p. 331, ch. 161.

Emergency. Effective May 13, 1949.

Section 8 of the Act of 1949 repealed all conflicting laws and parts of laws.

#### Art. 1702g. Law libraries in counties of 29,500 to 30,000

Section 1. The Commissioners Courts of all counties within this State having a population of not less than twenty-nine thousand, five hundred (29,500) inhabitants nor more than thirty thousand (30,000) inhabitants, according to the last preceding or any future Federal Census, and in which there is located no Court of Civil Appeals, shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a county law library.

Sec. 2. For the purpose of establishing county law libraries after the entry of such order, there shall be taxed, collected, and paid as other costs, the sum of One Dollar (\$1) in each 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

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

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 1949, 51st Leg., p. 768, ch. 413.

Emergency. Effective June 14, 1949.

## TITLE 37—COURT—SUPREME

### CHAPTER ONE—JUDGES

#### Art. 1715. 1512-13 Judges

Const. art. 5, § 2, as amended in 1945 provides that the Supreme Court shall consist of a chief justice and eight associate

justices, and further, provides for eligibility to office, terms, vacancies, etc. Retirement, see art. 6228b.

#### Art. 1716. 1514, 935, 1003 Qualifications

Eligibility to office of chief justice or associate justice of the supreme court, see Const. art. 5, § 2.

### CHAPTER THREE—TERMS AND JURISDICTION

#### Art. 1726. 1518, 937, 1005 Terms of Supreme Court

Const. art. 5, § 3a, provides that the supreme court "may sit at any time during the year at the seat of government for the

transaction of business and each term thereof shall begin and end with each calendar year."

## TITLE 38—COURT OF CRIMINAL APPEALS

#### Art. 1801. 1652, 1044 Judges

Retirement, see art. 6228b.

#### Art. 1811a. Commission of Criminal Appeals

Retirement, see art. 6228b.

## TITLE 39—COURTS OF CIVIL APPEALS

### CHAPTER ONE—TERMS AND JURISDICTION

#### Art. 1812. 1580, 987 Three Justices

Retirement, see art. 6228b.

## TITLE 40—COURTS—DISTRICT

## CHAPTER ONE—THE JUDGE

## Art. 1884. 1671-1672 Election and qualification

Retirement, see art. 6228b.

## TITLE 41—COURTS—COUNTY

## CHAPTER ONE—THE COUNTY JUDGE

<p>Art. 1934a—12. Stenographer or secretary in counties of 27,059 to 27,150.</p> <p>1934a—13. Stenographer or secretary for county judge in counties of 47,000 to 51,000.</p>	<p>Art. 1934a—14. Stenographer or clerk in counties of 10,380 to 10,390.</p>
---	--

Art. 1934a—12. Stenographer or secretary in counties of 27,059 to 27,150

In any county of this State whose population as shown by the last preceding Federal Census is not more than twenty-seven thousand, one hundred and fifty (27,150) and not less than twenty-seven thousand and fifty-nine (27,059) inhabitants, the County Judge shall be, and is hereby, authorized to employ a stenographer or secretary at a salary to be determined by the Commissioners Court, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or secretary shall be subject to removal at the will of such County Judge. Acts 1949, 51st Leg., p. 83, ch. 48, § 1.

Emergency. Effective March 19, 1949.

**Title of Act:**

An Act authorizing the County Judge to employ a stenographer or secretary in any county having a population of not more than twenty-seven thousand, one hundred and fifty (27,150) and not less than twenty-

seven thousand and fifty-nine (27,059) inhabitants, according to the last preceding Federal Census; regulating the salary of same; providing for payment of salary; providing for removal; and declaring an emergency. Acts 1949, 51st Leg., p. 85, ch. 48.

Art. 1934a—13. Stenographer or secretary for county judge in counties of 47,000 to 51,000

In any county of this State whose population, as shown by the last preceding Federal Census, exceeds forty-seven thousand (47,000) persons and does not exceed fifty-one thousand (51,000) persons, the county judge may, with the approval of the Commissioners Court, employ a stenographer or secretary at a salary of not more than Twenty-four Hundred Dollars (\$2,400) per annum, 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 1949, 51st Leg., p. 369, ch. 192, § 1.

**Title of Act:**

An Act providing for the appointment and salary of stenographers or secretaries for

County Judges in certain counties in Texas; and declaring an emergency. Acts 1949, 51st Leg., p. 369, ch. 192.

**Art. 1934a—14. Stenographer or clerk in counties of 10,380 to 10,390**

In any county in this State whose population as shown by the last preceding Federal Census of 1940 is not more than ten thousand, three hundred and ninety (10,390) and not less than ten thousand, three hundred and eighty (10,380) inhabitants, the County Judge shall be and is hereby authorized to employ a stenographer or clerk at a salary not exceeding Two Hundred and Fifty Dollars (\$250) per month, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge. Acts 1949, 51st Leg., p. 469, ch. 253, § 1.

**Title of Act:**

An Act authorizing the County Judge to employ a stenographer or clerk in any county having a population of not more than ten thousand, three hundred and ninety (10,390) and not less than ten thousand, three hundred and eighty (10,380) inhab-

itants, according to the last preceding Federal Census of 1940; regulating the salary of same; providing for payment of salary; providing for removal; and declaring an emergency. Acts 1949, 51st Leg., p. 469, ch. 253.

**CHAPTER FIVE—MISCELLANEOUS PROVISIONS**

**ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER**

**HARRIS COUNTY PROBATE COURT**

**Art.**  
**1970—110a.** Probate court of Harris county.

**STERLING COUNTY COURT**

**1970—300a.** Jurisdiction of Edwards county court increased; terms of court.

**JOHNSON COUNTY COURT**

**1970—335.** Johnson county; jurisdiction of county court diminished; jurisdiction of district court.

**COUNTIES OF 225,000 INHABITANTS**

**Art.**

**1970—336.** Salary of judge in counties having only one county court at law.

**BLANCO COUNTY COURT**

**1970—337.** Jurisdiction extended; civil and criminal; concurrent with justices court.

**ELLIS COUNTY COURT**

**1970—338.** Jurisdiction limited; jurisdiction of district court.

**NUECES COUNTY**

**1970—339.** County court at Law of Nueces county.

**LUBBOCK COUNTY**

**1970—340.** County Court at Law of Lubbock County.

**ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER**

**HARRIS COUNTY PROBATE COURT**

**Art. 1970—110a. Probate Court of Harris County**

**Section 1.** There is hereby created a County Court to be held in and for Harris County, to be called the Probate Court of Harris County.

**Sec. 2.** The Probate Court of Harris County shall have the general jurisdiction of a Probate Court within the limits of Harris County, concurrent with the jurisdiction of the County Court of Harris County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common

drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. On the first day of the initial term of said Probate Court of Harris County there shall be transferred to the docket of said Court, under the direction of the County Judge and by order entered on the Minutes of the County Court of Harris County, such number of such proceedings and matters then pending in the County Court of Harris County as shall be, as near as may be, one-half in number of the total of all of same then pending, and all writs and processes theretofore issued by or out of said County Court of Harris County in such matters or proceedings shall be returnable to the Probate Court of Harris County as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed, with the County Clerk of Harris County, irrespective of the Courts or Judge to which the matter or proceeding is addressed, shall be filed by said Clerk alternately in said respective Courts in the order in which same are deposited with him for filing, beginning first with the County Court of Harris County. The County Judge of Harris County, in his discretion, may, by an order entered upon the Minutes of the County Court of Harris County, on or after the first day of the initial term of said Probate Court of Harris County, transfer to said Probate Court any such matter or proceeding then or thereafter pending in the County Court of Harris County, and all processes extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made.

Sec. 4. The County Court of Harris County shall retain, as heretofore, the powers and jurisdiction of said Court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature other than those provided in Section 3 of this Act to be transferred to and filed in the Probate Court of Harris County. The County Judge of Harris County shall be the Judge of the County Court of Harris County, and all-ex-officio duties of the County Judge of Harris County, as they now exist, shall be exercised by the County Judge of Harris County, except in so far as the same shall by this Act expressly be committed to the Judge of the Probate Court of Harris County. Nothing in this Act contained shall be construed as in anywise impairing or affecting the jurisdiction of the County Court at Law of Harris County, or of the County Court at Law No. 2 of Harris County.

Sec. 5. The practice and procedure in the Probate Court of Harris County shall be the same as that provided by law generally for the county courts of this State; and all Statutes and laws of the State, as well as all rules of court relating to proceedings in the county courts of this State, or to the review thereof or appeals therefrom, shall, as to all matters within the jurisdiction of said Court, apply equally thereto.

Sec. 6. The Probate Court of Harris County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said Court, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing County Courts throughout the State.

Sec. 7. There shall be two (2) terms of said Probate Court of Harris County in each year, and the first of such terms shall be known as the

January-June Term, shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January. The initial term of said Court shall begin on the first Monday in January, 1950.

Sec. 8. There shall be elected in said County by the qualified voters thereof, at each General Election, a Judge of the Probate Court of Harris County, who shall be well informed in the laws of the State, and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years prior to his election, and who shall hold his office for two (2) years and until his successor shall have been duly qualified. A Judge of said Court shall be appointed by the Commissioners Court of Harris County as soon as may be after the passage of this Act, who shall hold office from the date of his appointment until the next General Election and until his successor shall be duly elected and qualified.

Sec. 9. The Judge of the Probate Court of Harris County shall execute a bond and take the oath of office as required by the laws relating to County Judges.

Sec. 10. Any vacancy in the office of the Judge of the Probate Court of Harris County may be filled by the Commissioners Court of Harris County by the appointment of a Judge of said Court, who shall serve until the next General Election and until his successor shall be duly elected and qualified.

Sec. 11. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Harris County, the County Judge of Harris County shall sit and act as Judge of said Court, and may hear and determine, either in his own courtroom or in the courtroom of said Court, any matter or proceeding there pending, and enter any orders in such matters or proceedings as the Judge of said Court may enter if personally presiding therein.

Sec. 12. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Harris County and the County Judge of Harris County a Special Judge of the Probate Court of Harris County may be appointed or elected, as provided by the general laws relating to County Courts and to the Judges thereof.

Sec. 13. The County Clerk of Harris County shall be the Clerk of the Probate Court of Harris County. The seal of the Court shall be the same as that provided by law for County Courts, except that the seal shall contain the words "Probate Court of Harris County." The Sheriff of Harris County shall, in person or by deputy, attend the said Court when required by the Judge thereof.

Sec. 14. The Judge of the Probate Court of Harris County shall collect the same fees as are now or hereafter established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected, and from and after January 1, 1950, he shall receive an annual salary equal to the salary provided for the Judges of the County Courts at Law of Harris County and payable in like manner as the salary of said Judges of the County Courts at Law.

Sec. 15. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative.

Sec. 16. If any section, paragraph, sentence, clause, phrase or word contained in this Act shall be held unconstitutional by the Courts of this



State, the invalidity of such portion of the Act shall not be construed to affect any other part of the Act. Acts 1949, 51st Leg., p. 948, ch. 520.

## JEFFERSON COUNTY AT LAW

### Art. 1970—114. Terms of court

There shall be four terms of the County Court of Jefferson County at Law, each year, the first of said terms beginning on the first Monday of July; one term beginning on the first Monday of October; one term beginning on the first Monday of January; one term beginning on the first Monday of April; with each of said terms beginning on the first Monday, as aforesaid, and to continue until and including Sunday next before the first Monday of the term immediately following. As amended Acts 1949, 51st Leg., p. 7, ch. 7, § 1.

The number of terms was reduced from twelve to four by the amendment of 1949. A provision that the practice should be as prescribed by the laws relating to county courts.

Acts 1949, 51st Leg., p. 7, ch. 7, § 1, contained saving provisions as follows:

"The term of the County Court of Jefferson County at Law, current at the time of the taking effect of this Act, shall continue until the commencement of the next following term of said Court in the month as fixed by this Act. All process issued out of said Court before this Act takes effect and not theretofore returnable, or returnable on some special date, is hereby made returnable to said Court in a term as fixed by this Act. All bonds heretofore executed

and recognizances entered of record in said Court shall bind the parties to fulfill the obligations of such bonds and recognizances at the terms of Court as fixed by this Act. All writs and process heretofore issued and returned, as well as all bonds heretofore taken in said Court in civil cases, and all judgments, writs and decrees thereof shall be as valid and binding and enforceable as if no change had been made in the jurisdiction or time of the holdings of said Court."

Section 4 of the Act of 1949 read as follows: "If any section or part of this Act shall be held to be unconstitutional, the remaining sections or parts thereof shall not be affected but shall remain in force and effect."

### Art. 1970—115. Election of judge; tenure; qualifications

There shall be elected in Jefferson County by the qualified voters thereof at each general election a Judge of the County Court of Jefferson County at Law, who shall hold his office for two years and until his successor shall have been duly elected and qualified. No person shall be elected Judge of said Court who has not been a resident citizen of Jefferson County, Texas, for at least two years prior to his election, and shall possess all of the qualifications for the office that are now required by the General Laws of the State of Texas for District Judges. As amended Acts 1949, 51st Leg., p. 7, ch. 7, § 2.

Emergency. Effective March 3, 1949.

A requirement that the judge should be

well informed in the laws of the state was omitted by the amendment of 1949.

### Art. 1970—122. Salary of judge; fees collected and accounted for

The Judge of the County Court of Jefferson County at Law, shall receive a salary of Six Thousand Five Hundred (\$6,500.00) Dollars per annum, to be paid out of the County Treasury of Jefferson County, Texas, on order of the Commissioners Court of said county; and said salary shall be paid monthly in equal installments. The Judge of the County Court of Jefferson County at Law, shall assess the same fees as are now prescribed by law relating to County Judges' fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection; no part of which shall be paid to the said Judge, but he shall draw a salary as above specified in this section. As amended Acts 1949, 51st Leg., p. 7, ch. 7, § 3.

DEAF SMITH, PARMER, RANDALL, CASTRO AND LUBBOCK  
COUNTY COURTS

Art. 1970—209. Deaf Smith, Parmer, Randall, Castro and Lubbock county courts; jurisdiction of court

Lubbock County Court at Law, see art. 1970—340.

## EDWARDS COUNTY COURT

Art. 1970—300a. Jurisdiction of Edwards County Court increased; terms of court

Section 1. Hereafter the County Court of Edwards County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for County Courts.

Sec. 2. This Act shall not be construed to in anywise or any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. Jurisdiction of the District Court of Edwards County, Texas, shall be such as provided by the Constitution and General Laws of the State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Edwards County, Texas, shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justice Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said County Court in civil cases, of which said court has appellate, original or concurrent jurisdiction with Justice Court, where the amount in controversy does not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justice Court of jurisdiction now conferred upon it by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act; nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court, in any case originally brought in the Justice Court where the right of appeal exists under the Constitution and General Laws of this State.

Sec. 7. The District Clerk of Edwards County is required, within thirty (30) days after this Act takes effect, to make a full and complete transcript of all entries upon the criminal and civil dockets of said court, of any cases then pending before the District Court of said county, of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court, and to file said transcript, together with the original papers in each case, in the County Court of said county; and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said court, and said cases shall be disposed of in the same manner as if same had been originally filed in the County Court, and all processes now issued and returnable to said District Court shall be returnable to said County Court; all processes heretofore issued by the District Court in said cases, as well

as all bonds and recognizances heretofore taken in the District Court, shall be as valid as if no changes had been made as to the jurisdiction of said respective courts; and all bonds executed and recognizances entered in said District Court shall bind the parties to the next term of the County Court after this law becomes effective.

Sec. 8. The terms of said County Court shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August, and on the first Monday in November of each year; and each of said terms shall continue in session until the Saturday before the Monday on which a new term commences; provided that the Commissioners Court of said county may hereafter change the terms of said court whenever it may be deemed necessary by said Commissioners Court.

Sec. 9. All laws and parts of laws in conflict with this Act are hereby expressly repealed insofar as they relate to Edwards County, Texas. Acts 1949, 51st Leg., p. 261, ch. 140.

### TRAVIS COUNTY COURT

#### Art. 1970—324. County Court at Law of Travis County created

Sec. 16. From and after the passage of this Act the Judge of the County Court at Law of Travis County shall receive the same salary as is now prescribed or may be established by law for the County Attorney of Travis County, to be paid out of the County Treasury on the order of the Commissioners Court, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Travis County shall assess the same fees as are now prescribed or may be established by law, relating to the County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Section. As amended Acts 1949, 51st Leg., p. 338, ch. 166, § 1.

The same salary prescribed for the county attorney of Travis county was substituted by the amendment of 1949.

### JOHNSON COUNTY COURT

#### Art. 1970—335. Johnson county; jurisdiction of county court diminished; jurisdiction of district court

Section 1. The County Court of Johnson County shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement and distribution of estates of deceased persons pending in such Court; to conduct lunacy hearings; to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as now or may be provided for by General Law governing County Courts throughout the State, but neither said County Court of Johnson County nor the Judge thereof shall have any jurisdiction over matters of eminent domain, or other original civil jurisdiction, or other original criminal jurisdiction, or appellate civil jurisdiction, or other appellate

criminal jurisdiction; provided, however, that all future Statutes pertaining to probate matters enacted by the Legislature of the State of Texas, shall be operative in said Johnson County as fully as though this Statute had not been enacted.

Sec. 2. The District Court of Johnson County and the presiding Judge thereof shall have and exercise original jurisdiction in matters of eminent domain and that the District Court of Johnson County, Texas, and the presiding Judge thereof shall have and exercise original and appellate jurisdiction in all civil and criminal matters and causes over which by the laws of this State the County Court of Johnson County would have had original or appellate jurisdiction, but for the provisions set out in Section 1 of this Act; all causes, other than probate matters, as are provided in Section 1 of this Act shall be and the same are hereby transferred to the District Court of Johnson County, and all writs and process relating to such civil and criminal matters and causes included in the subject matter of jurisdiction prescribed in this Act, issued by or out of said County Court of Johnson County be and the same are hereby made returnable to the next term of the District Court of said County after this Act takes effect. Provided further, however, that as to any civil or criminal case on appeal from said County Court, should a judgment be entered by the Court of Civil Appeals or the Supreme Court, or the Court of Criminal Appeals, remanding the case for a new trial or for further proceedings, same shall be remanded to the District Court of Johnson County and all jurisdiction in respect to said particular case shall thereafter vest in the District Court of Johnson County, Texas.

Sec. 3. The County Clerk of Johnson County be and is hereby required, within thirty (30) 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 said District Court for Johnson County, Texas, and all such cases shall stand on the docket of said Court in the same manner and place as each stands on the docket of the County Court. Provided further that it shall not be necessary that the District Clerk refile any papers heretofore filed by the County Court, but papers in said case bearing the file mark of the County Clerk prior to the time of the 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 Court as a deposit in the particular case for which same was deposited. Credit shall be given litigants for all jury fees paid in the County Court.

Sec. 4. This Act shall not be construed to in any wise or manner affect final judgments heretofore rendered by said County Court of Johnson County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said County; but such County Court shall retain jurisdiction to enforce said final judgments and the County Clerk of said County shall issue all writs of execution and orders of sale and proceedings thereunder and his act in so doing shall be valid and binding to all intents and purposes the same as if no change had been made as set out in Section 2.

Sec. 5. The duties of the County Attorney of Johnson County shall not be in any wise or manner changed or affected by this Act; and the County Attorney of Johnson County shall have and perform the same du-

ties as were had and performed prior to the passage of this Act. Acts 1949, 51st Leg., p. 185, ch. 102.

Section 6 repeals all conflicting laws and parts of laws.

### COUNTIES OF 225,000 INHABITANTS

#### Art. 1970—336. Salary of judge in counties having only one county court at law

Section 1. In all counties in this State having a population of not less than two hundred and twenty-five thousand (225,000) inhabitants according to the last preceding Federal Census and having within said county only one County Court at Law the salary of the Judge of said County Court at Law shall be Seven Thousand, Four Hundred Dollars (\$7,400) per annum. Said salary shall be paid out of the County General Fund in twelve (12) equal monthly installments. The Commissioners Court of the county out of whose funds said salary is paid may, if it so elects, order such payments to be made out of the Jury Fund.

Sec. 2. The term "County Court at Law" as used in this Act shall mean and include County Courts at Law having jurisdiction over civil cases only or criminal cases only or both civil and criminal cases.

Sec. 3. 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.

Sec. 4. All laws or parts of laws fixing the salaries of Judges of County Courts at Law in any county having not less than two hundred and twenty-five thousand (225,000) population and having within said county only one County Court at Law as herein defined to the extent that they conflict with this Act are hereby repealed, but to the extent of the conflict only; it being intended that, and this Act shall control as to the amount of the salary in such counties over any classification by population of such counties heretofore made. Acts 1949, 51st Leg., p. 452, ch. 244.

### BLANCO COUNTY COURT

#### Art. 1970—337. Jurisdiction extended; civil and criminal; concurrent with justices court

Section 1. Hereafter the County Court of Blanco County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which, by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Blanco County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Blanco County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters

which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in civil cases, of which Court has appellate, original or concurrent jurisdiction with the Justices Courts, where the amount in controversy does not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said county court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Court of Blanco County, Texas, within thirty (30) days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May and on the first Monday in August and the first Monday in November of each year and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners Court. Acts 1949, 51st Leg., p. 491, ch. 267.

Section 9 repealed all conflicting laws and parts of laws in so far as they relate to Blanco County, Texas.

## ELLIS COUNTY COURT

### Art. 1970—338. Jurisdiction limited; jurisdiction of district court

Section 1. The County Court of Ellis County shall have and exercise the general jurisdiction of a Probate Court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement and distribution of estates of deceased persons pending in such court; to conduct lunacy hearings; to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as now or may be provided for by General Law governing County Courts throughout the State, but neither said County Court of Ellis County nor the Judge thereof shall have any jurisdiction over matters of eminent domain, or other original civil jurisdiction, or other original criminal jurisdiction, or appellate civil jurisdiction, or other appellate criminal jurisdiction; provided, however, that all future Statutes pertaining to probate matters enacted by the Legislature of the State of Texas shall be operative in said Ellis County as fully as though this Statute had not been enacted.

Sec. 2. The District Court of Ellis County and the presiding Judge thereof shall have and exercise original jurisdiction in matters of eminent domain and that the District Court of Ellis County, Texas and the presiding Judge thereof shall have and exercise original and appellate jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the County Court of Ellis County would have had original or appellate jurisdiction but for the provisions set out in Section 1 of this Act; all causes, other than probate matters, as are provided in Section 1 of this Act shall be and the same are hereby transferred to the District Court of Ellis County, and all writs and process relating to such civil and criminal matters and causes included in the subject matter of jurisdiction prescribed in this Act, issued by or out of said County Court of Ellis County, be and the same are hereby made returnable to the next term of the District Court of said county after this Act takes effect. Provided further, however, that as to any civil or criminal case on appeal from said County Court, should a judgment be entered by the Court of Civil Appeals or the Supreme Court, or the Court of Criminal Appeals, remanding the case for a new trial or for further proceedings, same shall be remanded to the District Court of Ellis County and all jurisdiction in respect to said particular case shall thereafter vest in the District Court of Ellis County, Texas.

Sec. 3. The County Clerk of Ellis County be and he is hereby required, within thirty (30) 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 said District Court for Ellis County, Texas, and all such cases shall stand on the docket of said court in the same manner and place as each stands on the docket of the County Court. Provided further, that it shall not be necessary that the District Clerk re-file any papers theretofore filed by the County Court, but papers in said case bearing the file mark of the County Clerk prior to the time of the said transfer shall be held to have been filed in the case as of the date filed without being re-filed 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 same was deposited. Credit shall be given litigants for all jury fees paid in the County Court.

Sec. 4. This Act shall not be construed to in anywise or manner affect final judgments heretofore rendered by said County Court of Ellis County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said county; but such County Court shall retain jurisdiction to enforce said final judgments and the County Clerk of said county shall issue all writs of execution and orders of sale and proceedings thereunder, and his act in so doing shall be valid and binding to all intents and purposes the same as if no change had been made as set out in Section 2. Acts 1949, 51st Leg., p. 683, ch. 355.

Section 5 repeals all conflicting laws and parts of laws.

Title of Act:

An Act transferring the civil and criminal jurisdiction of the County Court of Ellis County, Texas, to the District Court

of said county; providing for certain constitutional exceptions; providing for the transfer as to pending cases and the enforcement of judgments heretofore rendered; and declaring an emergency. Acts 1949, 51st Leg., p. 683, ch. 355.

## NUECES COUNTY

## Art. 1970—339. County court at Law of Nueces county

Section 1. There is hereby created a Court to be held in Corpus Christi, Nueces County, Texas, to be called the County Court at Law of Nueces County, Texas.

Sec. 2. The County Court at Law of Nueces County, Texas, shall have and exercise the jurisdiction in the matters and causes, civil and criminal, original and appellate, over which by the General Laws of the State the County Court of said County would have jurisdiction, except as provided in Section 4 of this Act; and all cases pending in the County Court of said County and all cases pending in the District Court for the 117th Judicial District which, by General Law, the County Court of Nueces County would have original jurisdiction were it not for Article 199, 117th Judicial District—Nueces, Sections 4 and 5, Revised Civil Statutes of Texas, other than probate matters, and matters of eminent domain and such as are provided in Section 4 of this Act, shall be and the same are hereby transferred to the County Court at Law of Nueces County, and all writs and processes, civil and criminal heretofore issued by or out of the County Court of said County, other than those pertaining to matters over which by Section 4 of this Act jurisdiction remains in the County Court of Nueces County, shall be and the same are hereby made returnable to the County Court at Law of Nueces County. The jurisdiction of the County Court at Law of Nueces County and of the Judge thereof shall extend to the matters of which jurisdiction has heretofore vested in the District Court for the 117th Judicial District, as heretofore provided by Article 199, 117th Judicial District—Nueces, Section 4, and the jurisdiction of the County Court at Law of Nueces County and the Judge thereof shall also extend to all matters of which jurisdiction has heretofore vested in the County Court of Nueces County and in the County Judge, except probate matters and matters of eminent domain; provided that nothing contained herein shall be construed as being in conflict with Article 1970-329, Revised Civil Statutes, nor shall anything contained herein be construed as abolishing, limiting or in any manner affecting the jurisdiction of the District Court for the 117th Judicial District of Texas, except to relieve of and remove from said 117th District Court its original jurisdiction of civil matters which by General Law the County Court of Nueces County would have original jurisdiction; but no provision shall affect the jurisdiction of the Commissioners Court or of the County Judge of Nueces County as the presiding officer of such Commissioners Court, as to roads, bridges, and public highways, and matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge thereof.

Sec. 3. The County Court at Law of Nueces County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State are conferred upon Justice Courts.

Sec. 4. The County Court of Nueces County shall have and retain, as heretofore, jurisdiction in matters of eminent domain and the general jurisdiction of the Probate Court and all jurisdiction now conferred by law over probate and eminent domain matters; and the Court herein created shall have no other jurisdiction than that named in this Act, and the County Court of said County as now existing shall have no jurisdiction over matters civil or criminal. The County Judge of Nueces County shall be the Judge of the County Court of said County, and all



ex-officio duties of the County Judge shall be exercised by said Judge of the County Court of Nueces County, except insofar as the same shall by this Act be committed to the County Court at Law of Nueces County.

Sec. 5. The terms of the County Court at Law of Nueces County shall be held in the Courthouse of Nueces County as follows, to-wit: Beginning on the third Mondays in January, March, May, July, September, and November in each year; and each term of said Court shall continue in session for eight (8) weeks. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts.

Sec. 6. There shall be elected in Nueces County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of Nueces County, who shall be a qualified voter in said County, and who shall be a regularly licensed Attorney at Law in this State, and who shall be a resident of Nueces County, Texas, and shall have been actively engaged in the practice of law for a period of not less than four (4) years next preceding such general election, who shall hold his office for two (2) years, and until his successor shall have been duly elected and qualified.

Sec. 7. The Judge of the County Court at Law of Nueces County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A Special Judge of the County Court at Law of Nueces County may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall receive the sum of Ten (\$10.00) Dollars per day for each day he so actually serves, to be paid out of the general fund of the County by the Commissioners Court.

Sec. 9. As soon as this Act becomes effective, the Commissioners Court of Nueces County shall appoint a Judge to the County Court at Law of Nueces County, who shall hold his office as Judge of the County Court at Law of Nueces County until the next general election and until his successor is elected and qualified. Any subsequent vacancies in the office of the Judge of the County Court at Law of Nueces County shall be filled by appointment by the Commissioners Court of Nueces County and when so filled, the Judge of the County Court at Law shall hold office until the next general election and until his successor is elected and qualified.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law of Nueces County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law of Nueces County is disqualified.

Sec. 11. The Judge of the County Court at Law of Nueces County may be removed from office in the same manner and for the same causes as any other County Judge may be removed under the laws of this State.

Sec. 12. The Judge of the County Court at Law is authorized to appoint an official shorthand reporter for such County Court at Law; such official shorthand reporter shall receive the same compensation as provided in Article 2326, Revised Civil Statutes of Texas; the Judge of the County Court at Law of Nueces County shall have the authority to terminate the employment of such official shorthand reporter at any time.

Sec. 13. The County Court at Law of Nueces County, and the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is

within the jurisdiction of said Court, or of any other Court in said county of inferior jurisdiction to said County Court at Law of Nueces County.

Sec. 14. All cases appealed from the Justice Courts and other inferior Courts in Nueces County, Texas, shall be made direct to the County Court at Law of Nueces County, under the provisions heretofore governing such appeals.

Sec. 15. The County Clerk of Nueces County, Texas, shall be the Clerk of the County Court at Law of Nueces County. The seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Nueces County." The Sheriff of Nueces County shall in person or by deputy attend the said Court when required by the Judge thereof. The County Attorney of Nueces County shall represent the State in all prosecutions pending in said County Court at Law of Nueces County, and he shall be entitled to the same fee as now prescribed by law for such prosecutions in the County Courts.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Nueces County, for the drawing, selection, and service of jurors, shall be exercised by said Court; but juries summoned for either of said Courts may by order of the Judge of the Court in which they are summoned be transferred to the other Court for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Sec. 17. From and after the passage of this Act, the Judge of the County Court at Law of Nueces County shall receive a salary of Four Thousand Eight Hundred (\$4,800.00) Dollars per annum, to be paid out of the County Treasury on the order of the Commissioners Court, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Nueces County shall assess the same fees as are now prescribed or may be established by law, relating to the County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, and no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Section. Acts 1949, 51st Leg., p. 692, ch. 362.

Section 18 of the act of 1949 provided for the transfer of pending cases and process pertaining to such cases, section 19 repealed section 4 of Art. 199(117) and such

portions of section 5 as are in conflict herewith. Section 20 provided that unconstitutionality of any part of the act should not affect the remaining portions.

## LUBBOCK COUNTY

### Art. 1970—340. County Court at Law of Lubbock County

Section 1. There is hereby created a Court to be held in Lubbock, Lubbock County, Texas, which shall be known as the County Court of Lubbock County at Law.

Sec. 2. The County Court at Law of Lubbock County, Texas, shall have and exercise jurisdiction in all matters and causes; civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of said County would have jurisdiction, except as provided in Section 6 of this Act; and all cases pending in the County Court of said County, other than probate matters and such as are provided in Section 6 of this Act, shall be and the same is hereby transferred to the County Court of Lubbock County at Law, and all writs and process, civil and criminal, heretofore issued by or out of the County Court of said County, other than those pertaining to matters over which by Section 6 of this Act jurisdiction remains in the County Court of Lubbock County,

shall be and the same are hereby made returnable to the County Court at Law of Lubbock County.

The jurisdiction of the County Court at Law of Lubbock County, and the Judge thereof, shall extend to all matters of eminent domain of which jurisdiction has heretofore vested in the County Court of Lubbock County or in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Lubbock County as the presiding officers of such Commissioners Court, as to roads, bridges, and public highways, and matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge thereof.

Sec. 3. The County Court at Law of Lubbock County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State is conferred upon Justice Courts.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County of Lubbock County at Law in civil cases of which said Court had appellate or original concurrent jurisdiction with the Justice Court, where the judgment or amount in controversy would not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to said County Court of Lubbock County at Law over such matters as are specified in this Act, nor shall this Act be construed to deny the return of an appeal to the County Court of Lubbock County at Law from the Justice Court, where the return of appeals to the County Court now exists by law.

Sec. 6. The County Court of Lubbock County shall have and retain, as heretofore, the general jurisdiction of the Probate Court and of jurisdiction now conferred by law over probate matters, and the Court herein created shall have no other jurisdiction than that named in this Act, and the County Court of Lubbock County as now and heretofore existing shall have all jurisdiction which it now has, save and except that which is given the County Court at Law of Lubbock County in this Act; but the County Court now existing shall have no jurisdiction over other matters, civil or criminal. The County Judge of Lubbock County shall be the Judge of the County Court of said County, and all ex-officio duties of the County Judge shall be exercised by said Judge of the County Court of Lubbock County, except in so far as the same shall by this Act be committed to the County Court at Law of Lubbock County.

Sec. 7. The jurisdiction and authority now vested by law in the Court of Lubbock County for drawing, selection and service of jurors shall be exercised by said Court by jury summons for either the County Court of Lubbock County or the County Court at Law of Lubbock County may, by the Judge of the Court in which they are summoned, be transferred to the other County Court for service therein and may be used in such other Court as if summoned for jury service for the Court to which they may be thus transferred.

Sec. 8. The terms of the County Court of Lubbock County at Law and the practice therein, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts. The terms of the County Court of Lubbock County at Law shall be held as now established for the terms of the County Court of Lubbock County and the same may be changed in accordance with the law governing the change in the terms of the County Court of Lubbock County, Texas.

Sec. 9. There shall be elected in Lubbock County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of Lubbock County, who shall be a regularly licensed attorney at law in this State. No person shall be elected or appointed Judge of said Court who has not been a resident citizen of said Lubbock County for the immediate preceding two years and a practicing attorney of the State of Texas for at least five years immediately prior to his appointment or election. The person elected such Judge shall hold his office for two years, and until his successor shall have been duly elected and qualified.

Sec. 10. The County Attorney of Lubbock County shall represent the State in all prosecutions in said County Court at Law of Lubbock County, as provided by law for such prosecutions in County Courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 11. As soon as this Act becomes effective the Commissioners Court of Lubbock County shall appoint a Judge of the County Court at Law of Lubbock County, who shall hold his office until the next general election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said Court.

Sec. 12. The Judge of the County Court at Law of Lubbock County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

Sec. 13. The Judge of the County Court at Law of Lubbock County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 14. A special Judge of the County Court at Law of Lubbock County may be appointed or elected as provided by law relating to County Courts and to the Judge thereof, who shall receive the sum of Fifteen Dollars (\$15) per day for each day he so actually served, to be paid out of the general fund of the County by the Commissioners Court.

Sec. 15. In the case of the disqualification of the Judge of the County Court at Law of Lubbock County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a special Judge to try such case or cases where the Judge of the County Court at Law of Lubbock County is disqualified. In case of the selection of such special Judge by agreement of the parties or their attorneys, such special Judge shall draw the same compensation as that provided in Section 14 of this Act.

Sec. 16. The County Court at Law of Lubbock County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law.

Sec. 17. The County Clerk of Lubbock County shall be the Clerk of the County Court at Law of Lubbock County, and the seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Lubbock County."

Sec. 18. The Sheriff of Lubbock County shall in person or by deputy attend the said Court when required by the Judge thereof.

Sec. 19. The jurisdiction of authority now vested by law in the County Court for the selection and service of jurors shall be exercised by the County Court at Law of Lubbock County. All petit jurors summoned for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons

constituting such jury panels shall be required to appear and serve at the ensuing term of said Courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the Court for which they were originally drawn.

Sec. 20. Any vacancy in the office of the Judge of the County Court at Law of Lubbock County shall be filled by the Commissioners Court, and when so filled the Judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 21. The Judge of the County Court at Law of Lubbock County shall receive the same salary and be paid from the same fund and in the same manner as is now prescribed or may be established by law for the County Judge of Lubbock County, Texas, to be paid out by the County Treasurer of Lubbock County, Texas, on the order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments.

Sec. 22. The Judge of the County Court at Law of Lubbock County shall assess the same fees as are now prescribed by law relating to the County Judge's fees, all of which shall be collected by the clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Act.

Sec. 23. The Judge of the County Court at Law of Lubbock County, Texas, shall appoint an official shorthand reporter for such Court who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official Court Reporters and shall receive a salary as set by the Commissioners Court of Lubbock County, Texas, of not less than Three Thousand Dollars (\$3,000) per annum, to be paid out of the County Treasury of Lubbock County, Texas, as other County officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended and all other provisions of the law relating to official Court Reporters shall be and is hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 24. The laws of Texas and the rules of procedure and rules of evidence governing trials in and appeals from all proceedings in County Courts shall be applicable to, govern and control proceedings in and appeals from the County Court at Law of Lubbock County.

Sec. 25. All cases appealed from the Justice Court and other inferior Courts of Lubbock County, Texas, shall be made direct to the County Court at Law of Lubbock County, under the provisions governing appeals to County Courts.

Sec. 26. The Judge of the County Court at Law of Lubbock County is authorized to appoint an official interpreter for such County Court at Law. And the County Commissioners shall by resolution fix the compensation of said official interpreter and provide for the payment of such compensation and shall prescribe the duties of such official interpreter. The Judge of the County Court at Law of Lubbock County shall have authority to terminate the employment of such interpreter at any time. The official interpreter so appointed by the Judge of the said County Court at Law shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony given in the County Court at Law, and which oaths shall qualify him for service as official interpreter of such Court in all cases before such Court during his term of office.

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

Sec. 27. If any part, section, paragraph, sentence, or clause contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of this Act, and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity. Acts 1950, 51st Leg., 1st C.S., p. 74, ch. 16.

Emergency. Effective March 11, 1950.

**TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY****CHAPTER THREE—CITATION****Art. 2039a. Citation of nonresident motor vehicle owner by serving Highway Commission; forwarding notice to defendant**

Section 1. The acceptance by a non-resident of this State or the acceptance by his agent, servant or employee of the rights, privileges and benefits extended by law to such persons of operating a motor vehicle or motorcycle or of having the same driven or operated within the State of Texas shall be deemed equivalent to an appointment by such non-resident and of his agent, servant or employee, of the Chairman of the State Highway Commission of this State, or his successor in office, to be his true and lawful attorney and agent upon whom may be served all lawful process in any civil action or proceeding now pending or hereafter instituted against said non-resident, his agent, servant or employee, growing out of any accident, or collision in which said non-resident, his agent, servant, or employee may be involved while operating a motor vehicle or motorcycle within this State, either in person or by his agent, servant or employee, and said acceptance or operation shall be a signification of the agreement of said non-resident, or his agent, servant or employee that any such process against him or against his agent, servant, or employee, served upon said Chairman of the State Highway Commission or his successor in office, shall be of the same legal force and validity as if served personally.

Service of such process shall be made by leaving a certified copy of the process issued in the hands of the Chairman of the State Highway Commission in Texas at least twenty (20) days prior to the return date thereof, to be stated in said process, and such service shall be sufficient upon said non-resident, his agent, servant or employee, provided, however, that notice of such service and a copy of the process be forthwith sent by registered mail by the Chairman of the State Highway Commission to the non-resident defendant, his agent, servant or employee. As amended Acts 1949, 51st Leg., p. 498, ch. 272, § 1.

Amendment of 1949 was effective 90 days after July 6, 1949, date of adjournment.

**CHAPTER SIX—CERTAIN DISTRICT COURTS****Art.**

2093e. Assignment clerk of district courts of Bexar County [New].

**Art. 2092. Rules of practice and procedure**

Assignment clerks in counties under 500,000 having certain courts, see article 2093c.

**Art. 2093c. Assignment clerks in certain counties having eight district courts**

In all counties having at least eight (8) District Courts, at least two (2) of which are Criminal District Courts, and at least four (4) County Courts, at least two (2) of which are County Courts at Law and at least one (1) is a County Criminal Court, a majority of the Judges of the District Courts with civil jurisdiction may appoint an assignment clerk

to serve under the Judges of said Courts in disposing and setting of cases on the General Jury Docket.

The salary of said clerk shall be set by the Commissioners Court upon recommendation of the District Judges and paid in monthly installments on voucher approved by the presiding Judge of said Courts. His appointment shall be for a term of two (2) years, but he shall be subject to dismissal by a majority vote of said Judges for inefficiency or misconduct. As amended Acts 1949, 51st Leg., p. 147, ch. 91, § 1.

Emergency. Effective April 26, 1949. valid, the validity of the remainder shall not be affected thereby."  
Section 2 of the amendatory act of 1949 read as follows: "If any section, clause, Section 3 repeals all conflicting laws and or part thereof of this Act shall be held in- parts of laws.

#### Art. 2093e. Assignment clerks of district courts of Bexar County

Section 1. A majority of the Judges of the 37th, 45th, 57th and 73rd District Courts may appoint an Assignment Clerk to serve said Courts in Bexar County under the presiding Judge of said District Courts in the setting and disposing of cases on the general docket. Such Assignment Clerk shall perform such duties as are assigned to him by said Judges in connection with the setting and disposing of cases. The salary of such Clerk shall be set by the Commissioners Court of Bexar County and paid in monthly installments out of the General Fund or the Jury Fund of such County, as the Commissioners Court may provide, on voucher approved by the Presiding Judge of said Courts. The appointment shall be for a term of two (2) years, but he shall be subject to dismissal by a majority of said Judges for inefficiency or misconduct. Acts 1949, 51st Leg., p. 965, ch. 532.

Emergency. Effective July 1, 1949. 57th and 73rd District Courts of Bexar County, Texas, providing for a salary; and Title of Act: declaring an emergency. Acts 1949, 51st an Act providing for the appointment of an Assignment Clerk for the 37th, 45th, Leg., p. 965, ch. 532.

## CHAPTER SEVEN—THE JURY

### 1. JURIES IN CERTAIN COUNTIES

#### Art. 2094. 5151 Selecting names for wheel

Between the first and fifteenth days of August of each year, in each county having a population of at least forty-six thousand (46,000), or having therein a city containing a population of at least twenty thousand (20,000), as shown by the last preceding Federal Census, and in each county having two (2) or more District Courts holding sessions therein, regardless of population, except as hereinafter provided, the tax collector or one of his deputies, together with the sheriff or one of his deputies, and the county clerk or one of his deputies, and the district clerk or one of his deputies, shall meet at the courthouse of their county and select from the list of qualified jurors of such county as shown by the tax lists in the tax assessor's office for the current year, the jurors for service in the district and county courts of such county for the ensuing year, in the manner hereinafter provided.

Provided, however, that the provisions of this Act shall not apply to any county having a population of less than twenty thousand (20,000) inhabitants according to the last preceding Federal Census when such county is a part of two (2) or more Judicial Districts which Judicial Districts embrace more than two (2) counties. As amended Acts 1949, 51st Leg., p. 868, ch. 467, § 1; Acts 1950, 51st Leg., 1st C.S., p. 47, ch. 6, § 1.

Emergency. Effective March 3, 1950.



**Art. 2095. 5152—3 Cords put in wheel; typists and expenses**

Said officers shall write the names of all men who are known to be qualified jurors under the law, residing in their respective counties, on separate cards of uniform size and color, writing also on said cards, whenever possible, the post-office address of each juror so selected, except that in counties having a population of one hundred and fifty thousand (150,000) or more, according to the last preceding Federal Census, the Commissioners Court shall provide out of the jury fund a sum sufficient for the payment of typists and other expenses. The typists, under the direction, control and supervision of the District Clerk, shall type the names and addresses of qualified jurors upon the cards as herein described. The expenses so incurred shall be authorized, reported, paid and accounted for under the same laws, rules and regulations as govern the payment of other expenses of the office of the District Clerk in such counties, except as otherwise herein specifically provided. The cards containing said names shall be deposited in a circular hollow wheel, to be provided for such purpose by the Commissioners Court of the county. Said wheel shall be made of iron or steel and shall be so constructed as to freely revolve on its axle; and shall be kept locked at all times, except when in use as hereinafter provided, by the use of two separate locks, so arranged that the key to one will not open the other lock; and said wheel, and the clasps thereto attached into which the locks shall be fitted, shall be so arranged that the wheel cannot be opened unless both of said locks are unlocked at the time the wheel is opened. The keys to such locks shall be kept, one by the sheriff and the other by the district clerk. The sheriff and the clerk shall not open such wheel, nor permit the same to be opened by any person, except at the time and in the manner and by the persons herein specified; but said sheriff and clerk shall keep such wheel, when not in use, in a safe and secure place, where the same cannot be tampered with. As amended Acts 1949, 51st Leg., p. 720, ch. 383, § 1.

Emergency. Effective June 13, 1949.

**CHAPTER EIGHT—TRIAL OF CAUSES****2. CONTINUANCE AND CHANGE OF VENUE**

Art.

2168a. Attendance on Legislature [New].

**2. CONTINUANCE AND CHANGE OF VENUE****Art. 2168a. Attendance on Legislature**

In all suits, either civil or criminal, or in matters of probate, pending in any court of this State at any time within thirty (30) days of a date when the Legislature is to be in Session, or at any time the Legislature is in Session, it shall be mandatory that the court continue such cause if it shall appear to the court, by affidavit, that any party applying for such continuance, or any attorney for any party to such cause, is a Member of either branch of the Legislature, and will be or is in actual attendance on a Session of the same. Where a party to any cause is a Member of the Legislature, his affidavit need not be corroborated. On the filing of such affidavit, the court shall continue the cause until thirty (30) days after the adjournment of the Legislature and such affidavit shall be proof of the necessity for such continuance, and such

continuance shall be deemed one of right and shall not be charged against the party receiving such continuance upon any subsequent application for continuance. It is hereby declared to be the intention of the Legislature that the provisions of this Section shall be deemed mandatory and not discretionary. As amended Acts 1949, 51st Leg., p. 1111, ch. 569, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

## CHAPTER NINE—JUDGMENT AND REMITTITUR

### Art. 2226. 2178-9 Attorney's fees

Any person having a valid claim against a person or corporation for personal services rendered, labor done, material furnished, overcharges on freight or express, lost or damaged freight or express or stock killed or injured, may present the same to such person or corporation or to any duly authorized agent thereof; and if, at the expiration of thirty (30) days thereafter, the claim has not been paid or satisfied, and he should finally obtain judgment for any amount thereof as presented for payment to such person or corporation, he may also recover, in addition to his claim and costs, a reasonable amount as attorney's fees, if represented by an attorney. As amended Acts 1949, 51st Leg., p. 915, ch. 494, § 1.

Emergency. Effective June 29, 1949.

## CHAPTER THIRTEEN.—GENERAL PROVISIONS

### 1. MISCELLANEOUS

#### Art.

2286a. Citations and notices improperly directed; validation of proceedings [New].

### 2. RECEIVERS

2320c. Receiver to make mineral, oil or gas lease in case of contingent interests [New].

### 3. OFFICIAL COURT REPORTER

#### Art.

2326i. Salaries of official shorthand reporters in counties having six to nine district courts [New].

2326j. Shorthand reporter for Sixteenth Judicial District [New].

2327c. Shorthand reporters for county courts at law and county criminal courts in certain counties [New].

### 1. MISCELLANEOUS

#### Art. 2286a. Citations and notices improperly directed; validation of proceedings

Section 1. All citations and notices in all cases of lunacy, guardianship, or estates of decedents, or of any other probate proceedings directed to the sheriff or any constable of the county in which the proceedings were instituted instead of to any sheriff or constable within the State of Texas as provided in Rule 15 of the Rules of Civil Procedure, which have been duly served and returned in the manner provided by law by the sheriff or constable within the county in which the proceedings were instituted, together with all uncontested orders, decrees, sales, leases and judgments grounded on such citations or notices are hereby validated and made as effective to support proceedings in the respective county courts in lunacy, guardianship and probate as if directed to any sheriff or constable within the State of Texas, as provided in said Rule 15.

Sec. 2. In all cases where personal service is required in lunacy, guardianship, or estates of decedents, or any other probate proceedings where any citation or notice therein has been directed to the sheriff or constable of the county in which the person named in the citation or notice was located instead of to any sheriff or constable within the State of Texas as provided in Rule 15 of the Rules of Civil Procedure, and such citations or notices have been duly served on the person named therein by the sheriff or constable of the county in which the person named in the citation or notice was located, together with all uncontested orders, decrees, sales, leases and judgments grounded on such citations or notices are hereby validated and made as effective to support proceedings in the respective county courts in lunacy, guardianship and probate as if directed to any sheriff or constable in the State of Texas, as provided in said Rule 15.

Sec. 3. The provisions of this Act shall not be applicable to the issues in any law suit or in any contested probate proceedings pending in any court of this State on the effective date of this Act. Acts 1949, 51st Leg., p. 1112, ch. 570.

Emergency. Effective July 21, 1949.

## 2. RECEIVERS

### Art. 2320c. Receiver to make mineral oil or gas lease in case of contingent interests

Section 1. Where lands or any estate therein are subject to contingent future interests, legal or equitable, whether arising by way of remainder, reversion, possibility of reverter, executory devise, upon the happening of a condition subsequent, or otherwise, and it is made to appear that such lands or estate are liable to drainage of oil, gas and other minerals, or either of them, or that lease thereof for oil, gas and mineral development and the safe and proper investment of the proceeds will inure to the benefit and advantage of the persons entitled thereto, or that it is otherwise necessary for the conservation, preservation or protection of the property or estate or of any present or contingent or future interest therein, that such lands or estate be leased for the production of oil, gas and other minerals, or either of them, upon application of any person having a vested, contingent, or possible interest in said lands or estate, any District Court of the county in which the lands or a part thereof lie shall have power, pending the happening of the contingency and the vesting of such future interests, to appoint a receiver for such lands or estate and to authorize and direct the lease of such property for development of oil, gas and other minerals, or either of them, either at public sale or at private sale, and upon such terms and conditions as the Court may direct; and in such case to authorize a receiver to make such lease and to receive, hold and invest the proceeds thereof under the direction of the Court for the benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests, and to that end may confer all necessary powers on the receiver.

Sec. 2. All persons in being having a vested, contingent, or possible interest in the lands shall be cited in such cause in the manner and for the time provided for in actions concerning title to lands. All persons not in being shall be cited in the manner and for the time provided in actions against unknown owners or claimants of interest in land.

Sec. 3. No mineral lease on which there has already been drilled any oil or gas well, or both, and no mineral lease or leasing unit upon which drilling operations for oil and gas, or both, have already begun at the

time of the effective date of this Act, shall come within the application of the provisions of this Act; it being the intention of the Legislature that the provisions of this Act shall apply only to mineral leases where there has been no development for oil and gas, or other minerals, upon the effective date of this Act. It is further provided, however, that no lease shall be authorized covering any mineral interest in lands, in which lands there are existing homestead rights, without the written consent of the owner or owners of such homestead rights given in the manner provided by law for the conveyance of homesteads.

Sec. 4. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the Courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act; and the Legislature hereby declares that it would have enacted, and does here now enact, such remaining portions despite any such invalidity. Acts 1949, 51st Leg., p. 956, ch. 525.

Effective 90 days after July 6, 1949, date of adjournment.

### 3. OFFICIAL COURT REPORTER

#### 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, Seven Hundred Fifty (\$2,750.00) Dollars per annum and not more than Four Thousand, Eight Hundred (\$4,800.00) Dollars 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 salaries shall be paid monthly by the Commissioners Court of the county or counties in which the Court sits, and in which the service is performed, out of any fund available for the purpose, in the same manner as it has been heretofore paid. As amended Acts 1949, 51st Leg., p. 820, ch. 440, § 1.

Emergency. Effective June 19, 1949.  
Section 2 of the act of 1949 read as follows: "All laws and parts of laws in conflict herewith are hereby repealed, except that nothing contained herein shall be con-

strued to affect or repeal Acts 1945, 49th Legislature, page 430, Chapter 272, nor Acts 1947, 50th Legislature, page 256, Chapter 151. The two last mentioned Acts shall remain in full force and effect."

#### Art. 2326i. Salaries of official shorthand reporters in counties having six to nine districts courts

Section 1. In any county in this State which now or hereafter in itself constitutes a judicial district, and in which county a total of not less than six (6) and not more than nine (9) permanent District Courts, including Civil and Criminal District Courts, have been or shall be hereafter created, the salaries of the official shorthand reporters shall be Forty-eight Hundred Dollars (\$4800) per annum, in addition to transcript and other fees allowed by law. Such salaries shall be paid out of the County General Fund, or the Jury Fund, or the Officers Salary

Fund, in twelve (12) equal monthly installments on approval of the Judge of the Court in which the service is rendered.

Sec. 2. 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.

Sec. 3. All laws or parts of laws fixing the salaries of official shorthand reporters in any county which in itself constitutes a judicial district having not less than six (6) and not more than nine (9) permanent District Courts, including Civil and Criminal District Courts, to the extent that they conflict with this Act are hereby repealed, but to the extent of the conflict only; it being intended that, and this Act shall control as to the amount of the salaries in such counties over any classification, by population or otherwise, of such counties heretofore made. Acts 1949, 51st Leg., p. 180, ch. 97.

Emergency. Effective April 29, 1949.

**Title of Act:**

An Act to fix the salaries of official shorthand reporters in Courts in any county constituting in itself a judicial district and now or hereafter having therein not less than six (6) and not more than nine (9) permanent District Courts, including

both Civil and Criminal District Courts; providing for the payment thereof; providing a saving clause; repealing all laws and parts of laws in conflict herewith to the extent of such conflict; and declaring an emergency. Acts 1949, 51st Leg., p. 180, ch. 97.

**Art. 2326j. Shorthand reporter for sixteenth Judicial District**

Section 1. The Judge of the Sixteenth Judicial District of Texas, composed of the Counties of Cooke and Denton or the Judge of the Judicial District of which the Counties of Cooke and Denton are a part thereof, shall appoint an official shorthand reporter for such district in the manner now provided for district courts in this State; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Four Thousand, Two Hundred Dollars (\$4,200) per annum, nor more than Four Thousand, Six Hundred Dollars (\$4,600) per annum, said salary to be fixed and determined by the District Judge of the Sixteenth Judicial District composed of the Counties of Cooke and Denton, or by the District Judge of which the Counties of Cooke and Denton are a part thereof, and said salary shall be in addition to the transcript fees of fifteen cents (15¢) per one hundred (100) words for the Question and Answer record and twenty cents (20¢) per one hundred (100) words for a narrative statement of facts, and said reporter shall, in addition, receive allowances for expenses as now provided by Chapter 56, House Bill No. 276, Acts, Regular Session of the Forty-first Legislature, 1929,<sup>1</sup> which allowances, as now provided by law, are fixed and established as a part of this Act. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the general funds or the jury funds of the Counties in the discretion of the Commissioners Courts, by the respective Counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each County in the Judicial District.

<sup>1</sup> Article 2326a.

Sec. 2. 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.

Sec. 3. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the

District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for expenses shall be as provided for in this Act, and not otherwise. The provisions of this Act being declared and enacted as a Special Act by the Legislature, notices thereof having been duly published and exhibited as required by Law. Acts 1949, 51st Leg., p. 462, ch. 248.

Emergency. Effective May 21, 1949.

**Art. 2327c. Shorthand reporters for county courts at law and county criminal courts in certain counties**

Section 1. This Act shall apply to counties of this State which now have, or which may hereafter have, two (2) or more County Courts at Law and one (1) or more County Criminal Courts.

Sec. 2. The Judge of each County Court at Law and of each County Criminal Court shall appoint an official shorthand reporter for the respective Court over which he presides, who shall be skilled in such profession and shall be a sworn officer of the Court and shall hold such office at the pleasure of the Court, and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended, and all other provisions in law relating to "Official Court Reporters" shall and are hereby made to apply in all the provisions in so far as they are applicable to the official shorthand reporters herein authorized to be appointed and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of said county or counties, paid in the same manner that compensation of official shorthand reporters of the District Courts of said county or counties are paid.

The official shorthand reporter of said Courts shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but, where the testimony is taken by the said reporter a fee of Three Dollars (\$3) shall be taxed by the Clerk as costs in the case; the said Three Dollars (\$3) when collected, to be paid into the Treasury of the county in which said Court is located.

Sec. 3. All laws and parts of laws in conflict herewith are repealed to the extent of such conflict only.

Sec. 4. Should any portion of this Act be declared invalid, the same shall not invalidate the remaining portions of said Act.

Sec. 5. The County Judge, the County Auditor, the Commissioners Court, and any other officials charged with the preparation and approval of the county budget, are authorized to amend and shall amend the budget of such counties, as come within this Act, to provide for the payment of the compensation and salaries provided for official court reporters authorized by this Act. Acts 1949, 51st Leg., p. 460, ch. 247.

Emergency. Effective May 21, 1949.

## TITLE 43—COURTS—JUVENILE

Art.

2338—2. Designation of district court as juvenile court in certain counties [New].

Art.

2338—3. Court of Domestic Relations; Potter County [New].

**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. 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 jurisdictions as may be necessary to carry out the provisions of this Act.

In all counties having only one (1) district court and having a juvenile board, such board shall designate the county court or the district court to be the Juvenile Court for such county, and in all other counties having only one (1) district court, but no juvenile board, the County Judge and the District Judge of such county shall designate the county or district court of such county as the Juvenile Court. In counties having two (2) or more district courts or one (1) or more district courts and one (1) or more criminal district courts, and having a juvenile board, such board shall designate one (1) of such district courts or criminal district courts to be the Juvenile Court of such county, and in all other counties having two (2) or more district courts, or one (1) or more district courts and one (1) or more criminal district courts, the judges of such courts shall designate one (1) of such district courts or criminal district courts as the Juvenile Court of such county. All such designations may be changed from time to time by such boards or such judges as are authorized herein to make the same, for the convenience of the people and the welfare of minors; provided, that there shall be at all times a Juvenile Court designated for each county. It is the intent of the Legislature that in selecting a court to be the Juvenile Court of each county, such selection be made as far as practicable so that the court designated as the Juvenile Court will be one which is presided over by a judge who has a sympathetic understanding of the problems of child welfare, and that changes in the designations of Juvenile Courts be made only when the best interests of the public require it.

Any criminal district court so designated as a Juvenile Court, and the judges thereof, shall have the same jurisdiction, powers, authority and duties as is now, or may be hereafter, conferred upon district courts in regard to such children.

In all counties having two (2) or more district courts, wherein a district court is designated as the Juvenile Court of said county, it shall give preference to cases of child delinquency, dependency, neglect, support, custody, and adoption, and to contempt proceedings growing out of or ancillary to such cases, and all other district courts in such counties may, from time to time, transfer to such district court as has been

designated the Juvenile Court of such county, all such cases on their dockets, and may transfer to such district court as has been designated the Juvenile Court any or all cases of annulment or divorce which involve child custody or support, with the consent of the judge of the Juvenile Court.

Immediately after the designation of a Juvenile Court for each county, as herein provided for, the clerks of the courts of such counties shall transfer all cases of juvenile delinquency on their dockets to the docket of the Juvenile Court so designated, under the direction of the judges of said courts, and thereafter all cases of juvenile delinquency shall be filed in such Juvenile Courts.

In all counties having two (2) or more district courts, or one (1) or more district courts and one (1) or more criminal district courts, in addition to cases of juvenile delinquency, all new cases of dependency, neglect, support, child custody, and adoption, shall henceforth be filed in the Juvenile Court of such counties; provided, however, that nothing herein contained shall prevent the transfer of such cases to other courts having jurisdiction thereof under existing laws. The above provisions shall not be construed as requiring any divorce cases to be filed in any particular court, but same may be transferred to the Juvenile Court under the provisions above set forth where it appears to the judge in whose court such divorce case is pending, and the judge of the Juvenile Court, to be desirable to do so.

The jurisdiction, powers, and duties thus conferred upon the established courts hereunder are superadded jurisdictions, powers, and duties; it being the intention of the Legislature not to create hereby any additional offices.

Appeals from judgments of criminal district courts rendered in juvenile cases shall be taken to the proper Court of Civil Appeals. As amended Acts 1949, 51st Leg., p. 702, ch. 368, § 1.

Emergency. Effective June 13, 1949.

Sections 2 and 3 of the act of 1949 read as follows: "Sec. 2. Pending the designation of Juvenile Courts under the provisions of this Act, all Juvenile Courts heretofore designated under the previous law shall continue to function with all powers and jurisdiction heretofore vested in them; it being the intention of the Legislature, however, that the new designations shall be made in each county of the State within

ninety (90) days after the effective date of this Act.

"Sec. 3. If any Section, paragraph, sentence, clause, phrase or portion of this Act be held invalid or unconstitutional, such invalidity shall not affect any other Section, paragraph, sentence, clause, phrase or portion of this Act, it being the intention of the Legislature to enact such valid portions distinct from other portions thereof."

#### Art. 2338—2. Designation of district court as juvenile court in certain counties

Section 1. In counties having ten (10) or more District Courts, either temporary or permanent, and having a Juvenile Board composed of District Judges and the County Judge of said county, such Juvenile Board shall designate one (1) of the District Courts to be the Juvenile Court of such county and may change the designation of such Juvenile Court from time to time when in the opinion of the Juvenile Board the best interest of the people require it.

Sec. 2. Such Juvenile Courts shall give preference to child delinquency, dependency, neglect, support, change of custody and adoption, and to contempt proceedings growing out of or ancillary to such cases, and all other District Courts in such counties may from time to time transfer to such District Court as has been designated as the Juvenile Court of such county all such cases on their dockets.



Sec. 3. Immediately after the designation of a Juvenile Court for each county, as herein provided for, the Clerks of the Courts of such counties shall transfer all cases of juvenile delinquency on their dockets to the docket of the Juvenile Court so designated, under the direction of the Judges of said courts, and thereafter all cases of juvenile delinquency shall be filed in such Juvenile Courts.

In all counties having ten (10) or more district courts, in addition to cases of juvenile delinquency, all new cases of dependency, neglect, support, change of custody and adoption may be transferred to the docket of the Juvenile Court so designated under the direction of the Judges of said courts.

The jurisdiction, powers, and duties thus conferred upon the established courts hereunder are superadded jurisdiction, powers, and duties; it being the intention of the Legislature not to create hereby any additional offices.

Sec. 4. Pending the designation of Juvenile Courts under the provisions of this Act, all Juvenile Courts heretofore designated under the previous Law shall continue to function with all powers and jurisdiction heretofore vested in them; it being the intention of the Legislature, however, that the new designation shall be made in each county of the State within ninety (90) days after the effective date of this Act. Acts 1949, 51st Leg., p. 518, ch. 283.

Emergency. Effective May 27, 1949.

**Title of Act:**

An Act creating a Juvenile Court in counties having ten or more District Courts and having a Juvenile Board composed of the District Judges and County Judge of said county; providing for the hearing and

disposition of cases of dependency, neglect, support, change of custody, adoption and contempt proceedings growing out of or ancillary to such cases; and declaring an emergency. Acts 1949, 51st Leg., p. 518, ch. 283.

**Art. 2338—3. Court of Domestic Relations; Potter county**

**Creation of court**

Section 1. There is hereby created a Court of Domestic Relations in and for Potter County, Texas.

**Qualifications of judge; salary; jurisdiction of court**

Sec. 2. The Judge of the Court of Domestic Relations hereby established shall have such qualifications as are fixed by the Juvenile Board herein provided for, and shall be paid by the Commissioners Court of Potter County, such salary as such Juvenile Board may fix, same to be paid out of the General Fund of the County in twelve (12) equal monthly installments.

Said Court of Domestic Relations shall have jurisdiction of all cases involving adoptions, removal of disability of minority, change of name of persons, delinquent, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the district or county courts under the juvenile and child-welfare laws of this State; and of all divorce and marriage annulment cases including the adjustment of property rights involved therein, as well as cases of child support, alimony pending final hearing and adjustment of property rights as well as any and every other matter incident to divorce or annulment proceedings; and all other cases of Domestic Relations involving justiciable controversies and differences between parents or between them and their minor children which are now, or may hereafter be, within the jurisdiction of the district or county courts in the manner provided by Articles 2337, 2338—1, Revised Civil Statutes of Texas, 1925, Acts of the

Regular Session of the 48th Legislature, 1943, Chapter 240, page 313, and Acts of the Regular Session of the 49th Legislature, 1945, Chapter 35, page 52, and any other Article of the Civil or Penal Statutes of this State. It shall also have jurisdiction of all criminal cases involving crimes against children the maximum punishment for which does not exceed two (2) years in the penitentiary, or in which a fine or jail sentence may be imposed, including wife and child desertion, contributing to the delinquency of a minor, enticing a minor from legal custody as provided under Articles 602, 534 and 535 of the Penal Code of this State; and provided that all cases above enumerated may be instituted in, or transferred to said Court.

**Transfer of cases**

Sec. 3. When the Court of Domestic Relations is organized and the Judge thereof shall qualify, the County Judge of Potter County, and the Judges of the 108th Judicial District and of the 47th Judicial District may transfer to said Court of Domestic Relations all cases which may then be pending in their respective courts in Potter County, Texas, of which said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders entered by them.

**Holding court; docket and minutes; clerk**

Sec. 4. The said Court of Domestic Relations shall sit and hold court in Potter County, and shall maintain all necessary dockets and minutes therein. The Juvenile Board, herein provided for, shall have the power, authority and duty of appointing the Clerk of said Court in the same manner, and under the same conditions, and for the same term of office, as is hereinafter provided in Section 6 for the appointment of the Judge of said Court. And, said Clerk shall also be subject to removal from office for the same reasons, and shall be entitled to the same hearings, and the same rights, accorded to the Judge of said Court, as provided in said Section 6, and shall remain in office until his successor shall qualify.

**Juvenile board**

Sec. 5. There is hereby created a Board, to be known as the Juvenile Board, which shall be composed of the Judges of the District Courts above-mentioned, and the County Judge of Potter County, Texas. The members composing such Juvenile Board shall be allowed additional compensation of One Hundred Dollars (\$100) per annum, which shall be paid annually.

**Appointment and removal of judge; duties of board**

Sec. 6. By and with the approval of the Commissioners Court of Potter County, Texas, the Juvenile Board shall have the power, authority and duty of appointing, by majority vote, the Judge of said Court of Domestic Relations, whose term of office shall be for a period of four (4) years from and after his appointment and qualification, and until his successor is appointed and has qualified, for each term. Said Judge shall be subject to removal from office by the Juvenile Board for incompetence, malfeasance and misfeasance in office, or for conduct unbecoming a member of the Judiciary, upon complaint duly filed with, or instituted by the Juvenile Board, and after the same is established in a fair and open trial by the Juvenile Board. Said Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations when deemed necessary or when sought by him, and cooperate with him in the administration of the affairs of said Court.

**Boards and officers to furnish services**

Sec. 7. It shall be the duty of all officers, agents and employees of the child welfare board, county welfare office, county health officer, sheriff and constables within Potter County to furnish to said Court such services in the line of their respective duties as shall be required by said Court.

**Juvenile officers and investigators; reporter**

Sec. 8. The Judge of the Court of Domestic Relations shall have authority to appoint such juvenile officers and investigators as might be deemed necessary to the proper administration of its jurisdiction in Potter County, provided such appointments are approved by the Commissioners Court of such county and shall also have authority to appoint a court reporter in such cases as he shall deem it necessary to record and preserve the testimony, utilizing the services of the regular district court reporter and his assistants when possible, the salaries and compensation of such juvenile officers and court reporter to be determined and paid by the Commissioners Court of Potter County for the services rendered therein.

**Injunctions and writs; contempt**

Sec. 9. The Judge of the Court of Domestic Relations herein created shall have power to issue injunctions, temporary injunctions and restraining orders and such other writs as are now or hereafter may be issued under the laws of this State by district courts, when necessary in cases or matters in which said Court has jurisdiction, and also power to punish for contempt.

**Sessions of court**

Sec. 10. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified and remain in session until the first day of the following September and its terms shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

**Appeals**

Sec. 11. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Seventh Supreme Judicial District as now or hereafter provided for appeals from district and county courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

**Practice; number of jurors**

Sec. 12. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by the laws and rules pertaining to district and county courts; provided that juries shall be composed of six (6) members.

**Prosecuting attorneys**

Sec. 13. The District Attorney of the 47th Judicial District and the County Attorney of Potter County shall be responsible for the prosecution of all cases of a criminal nature in said Court of Domestic Relations.

**Institution or transfer of cases**

Sec. 14. All cases, indictments, complaints and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court, but the Judge of said Court

may transfer any such cases or matters to the county or district court having jurisdiction thereof under the laws of the State, to be tried in such court to which such transfer is made, with the permission and consent of the Judge thereof.

**Partial invalidity**

Sec. 15. If any Section, clause or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect, and the validity of the remainder of this Act shall not be affected thereby. Acts 1949, 51st Leg., p. 792, ch. 426.

Emergency. Effective June 16, 1949.

## TITLE 44—COURTS—COMMISSIONERS

## 2. POWERS AND DUTIES

- Art.**  
 2351a—4. Fire fighting equipment; time warrants or bonds [New].  
 2351d. Purchase through State Board of Control [New].  
 2351e. Public cemeteries; expenditures for maintenance and upkeep [New].  
 2368a—1. Validation of contracts, scrip, warrants and proceedings [New].  
 2368f. Time warrants; issuance in counties with 300,000 population [New].

**Art.**

- 2370a. County office buildings; additional jail facilities; juvenile detention homes [New].  
 2372d—2. Buildings and permanent improvements for annual exhibits [New].  
 2372i. Burial ground for veterans [New].  
 2372j. County office building and other buildings; certain counties of 90,000 to 225,000 [New].

**Art. 2350. County commissioners salaries**

Sec. 2a. Provided that in counties in this State having a population of three hundred and fifty thousand (350,000) or more, according to the last preceding Federal Census, the County Commissioners shall each receive a salary of Seven Thousand, Two Hundred Dollars (\$7,200) per annum, to be paid in equal monthly installments. Added Acts 1949, 51st Leg., p. 460, ch. 246, § 1.

Emergency. Effective May 21, 1949.

**Art. 2350(6). Compensation and traveling expenses of commissioners in certain counties**

Sec. 3. The provisions of this Act shall apply only to counties having an assessed valuation of not less than Fifteen Million Dollars (\$15,000,000) and a population of not more than sixty-five thousand (65,000) according to the last preceding Federal Census. As amended Acts 1949, 51st Leg., p. 370, ch. 194, § 1.

Acts 1949 became effective May 14, 1949.

**Counties of 18,444 to 18,500 and from 12,344 to 12,400**

Acts 1941, 47th Leg., p. 187, ch. 134, § 1, as amended Acts 1949, 51st Leg., p. 189, ch. 105, § 1, read as follows: "In any county in this State containing a population of not less than eighteen thousand, four hundred and forty-four (18,444) and not more than eighteen thousand, five hundred (18,500); and counties having a population of not less than twelve thousand, three hundred and forty-four (12,344) nor more than twelve thousand, four hundred (12,400), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner not more than the sum of Fifty Dollars (\$50) per month, to be paid out of the Road and Bridge Fund of each respective Commissioner's precinct, for traveling expenses and depreciation on the automobile while used on official business only and/or in overseeing the construction and maintenance of the public roads of said counties.

Each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair at his own expense, free of any other charge whatsoever to the county."

**Counties of 43,000 with assessed valuation of \$15,000,000 to \$17,000,000**

Acts 1949, 51st Leg., p. 229, ch. 128, read as follows: "Section 1. In all counties having a population of not less than forty-three thousand, nine hundred (43,900), according to the last preceding or any future Federal Census, and an assessed valuation according to the last approved tax rolls of not less than Fourteen Million Dollars (\$14,000,000) nor more than Seventeen Million Dollars (\$17,000,000) and in which there is located a State Park, the Commissioners of such counties shall receive annual salaries not to exceed Three Thousand, Six Hundred Dollars (\$3,600).

"Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed to the extent of said conflict only."

Emergency. Effective May 9, 1949.

## 2. POWERS AND DUTIES

### Art. 2351. 2241, 1537, 1514 Certain powers specified

18(a) The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is empowered in all cases where said county has heretofore acquired, or may hereafter acquire, land for and airport through purchase or gift from any person or source whatever, including the Federal Government, or any agency thereof, to lease said land and/or the facilities thereof, or any part thereof to any person or corporation upon such terms as the Commissioners Court shall deem advisable for airport purposes, or other purposes, provided any such lease is not inhibited by the terms of the grant to such county. Said counties through such Commissioners Courts are also hereby expressly authorized and empowered to contract with reference to oil, gas or other minerals or natural resources which may be vested in said counties by virtue of the ownership of such airports and to execute and deliver to any person upon such conditions and for such consideration, including oil payments, gas payments, over-riding royalties, etc. as the Commissioners Court may deem advisable, mineral deeds or mineral leases of all or any part of said minerals, or the rights thereto, which are vested in the county and to generally contract for the exploration and development of the minerals underlying said land or any part thereof.

(b) The proceeds from the sale of any minerals or mineral rights, or the consideration for the execution of any mineral leases, including cash bonuses, delay rentals and royalties, need not be devoted to the maintenance, upkeep, improvement and operation of such airport, but may be expended by the Commissioners Court for any lawful purpose.

(c) The proceeds received, or to be received from any person from the lease of the surface of said land, or from the lease of the facilities thereof, or any part thereof, for purposes other than airport purposes, or for purposes other than those relating to the operation of an airport, may likewise be expended by the Commissioners Court for any lawful purpose.

(d) The proceeds received, or to be received, from any person for any lease of the surface of said land, or for the lease of the facilities thereof, or any part thereof, for airport purposes, or for purposes related to the operation of an airport, shall be devoted, first, to the maintenance, upkeep, improvement and operation of such airport and the facilities, structures and improvements thereof, but any surplus remaining at the close of any fiscal year of operation may be expended by such Commissioners Court for any lawful purpose.

(e) The proceeds received, or to be received, from any charges for the use of said airport for airport purposes shall be devoted, first, to the maintenance, upkeep, improvement and operation of such airport and the facilities, structures and improvements thereof, but any surplus remaining at the close of the fiscal year of operation may be expended by the Commissioners Court for any lawful purpose. Added Acts 1949, 51st Leg., p. 503, ch. 276, § 1.

Emergency. Effective May 27, 1949.

19(a) The Commissioners Court of each county of this State, in addition to the powers already conferred upon it by law, is expressly authorized and empowered to contract with the United States Government, or with any agency thereof, and particularly with the Federal Works Administrator, the Housing and Home Finance Administrator, and/or

the National Housing Administrator, or their successor or successors, for the acquisition of any land, or interest in land, in such county, owned by the United States Government, or any agency thereof, and for the acquisition of any temporary housing on land which the United States Government, or any agency thereof, may own or control; and each such county in this State is authorized and empowered to acquire by purchase, gift or otherwise, any such land and any such housing from the United States Government, or any agency thereof, and to own and operate such land and housing.

(b) Each Commissioners Court in this State is authorized and empowered to adopt a resolution or order requesting the transfer to said county of any such land or housing, or interest therein, which the United States Government, or any agency thereof, is now, or may be hereafter, authorized to convey or transfer to such county, and each such county, through its Commissioners Court, is expressly authorized and empowered to bind itself to comply with any and all terms and conditions which the United States Government, or any agency thereof, may impose as a prerequisite to the transfer or conveyance of any of such land or housing, or either of them, or any interest therein; and any instrument or deed conveying to said county any such land or any such housing, or any interest therein, may contain any conditions and provisions, covenants and warranties which may be prescribed by the United States Government, or any agency thereof, and agreed upon by said county acting through its Commissioners Court, provided that such terms and conditions are not inhibited by the Constitution of the State of Texas.

(c) For the purpose of purchasing or otherwise acquiring said lands or housing, or both, and improving, enlarging, extending or repairing the same, the Commissioners Court of any county may issue negotiable bonds of the county and levy taxes to provide for the interest and sinking funds of any such bonds so issued, the authority hereby given for the issuance of such bonds and the levying and collection of such taxes to be exercised in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of Texas, 1925, as amended.

(d) Counties are expressly authorized and empowered to lease or rent any lands, housing, or facilities acquired by them pursuant to this Act and to establish and revise the rent or charges therefor; to arrange or contract for the furnishing by any person or agency, public or private, of services, or facilities for, or in connection with, any of such lands, housing or facilities, or the occupants thereof;

(e) Said counties are further authorized to sell and convey all or any part of the land or housing so acquired or to lease or exchange same; and said counties are further expressly authorized to execute oil, gas or mineral leases covering all or any part of said lands so acquired on such terms and conditions as may be deemed advisable by the Commissioners Court and for such consideration, including oil payments, gas payments, overriding royalties, etc. as may be deemed advisable; and such counties, through their Commissioners Courts, are expressly authorized and empowered to execute conveyances of minerals or mineral rights, and to generally contract for the exploration and development of the minerals underlying said land, if any, or any part thereof. Added Acts 1949, 51st Leg., p. 501, ch. 275, § 1.

Emergency. Effective May 27, 1949.

Section 2 of Acts 1949, 51st Leg., p. 501, ch. 275 and Acts 1949, 51st Leg., p. 503, ch. 276, repealed all conflicting laws and parts of laws. Section 3 read as follows: "If any section, subsection, sentence, clause or phrase of this Act is, for any reason, held to be invalid or unconstitutional, the valid-

ity of the remaining portions shall not be affected thereby, it being the intent of the Legislature, in adopting this Act, that no portion shall become inoperative by reason of the invalidity of any other portion."

Veterans county service office, creation and maintenance of, see article 5798a-2.

20. The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is authorized and empowered in all cases where such county has acquired a water supply from subterranean waters for county purposes, to sell, contract to sell and deliver any or all of such water which is not needed for county purposes to any public or municipal corporation, or political subdivision of this State, including any water control and improvement district, or fresh water supply district now created and existing, or which may hereafter be created under the laws of this State; any such water sold or contracted to be sold and delivered to any such public or municipal corporation or political subdivision of this State, may be used or re-sold for any lawful purpose; and said Commissioners Court shall have the right to fix and determine the rate or rates at which such water shall be sold to any such public or municipal corporation or political subdivision of this State, and to enter into contracts to sell and supply such water at such determined rate or rates for any term of years not exceeding forty (40); and all monies received by the county from the sale of such water shall be placed to the credit of the General Fund of the county and may be expended for general county purposes as now or hereafter permitted by law. Added Acts 1950, 51st Leg., 1st C.S., p. 87, ch. 24, § 1.

<p>Emergency. Effective March 17, 1950. Section 2 of the act of 1950 repealed conflicting laws and parts of laws to the extent of the conflict. Section 3 provided</p>	<p>that invalidity or unconstitutionality of any sentence, section, clause or phrase should not affect the remaining portions of the act.</p>
--	---

**Art. 2351a.—4. Fire fighting equipment; time warrants or bonds**

The Commissioners Court of any county in this State is hereby authorized to purchase fire trucks and other fire fighting equipment to be used for the protection and preservation of bridges, county shops, county warehouses, and other county property located in the county but without the corporate limits of any incorporated city or town, and in payment thereof is hereby authorized to issue either time warrants or negotiable bonds, or both, of the county, and to levy and collect taxes against the county general fund in payment thereof; provided, however, that any such warrants or bonds must have been authorized by a majority of the qualified property taxpaying voters, who had duly rendered the same for taxation, voting at an election duly called for that purpose by the Commissioners Court, such bonds and warrants to be issued and such taxes to be levied and collected in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, governing the issuance of bonds by cities, towns, and/or counties in this State; and provided further, that said warrants or bonds will be issued only in such amount or amounts as will at all times leave remaining and unencumbered sufficient taxes for general fund purposes to fully take care of all current expenses thereof. Acts 1949, 51st Leg., p. 1121, ch. 575, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

**Title of Act:**

An Act authorizing Commissioners Court to purchase fire trucks and other fire fighting equipment, and in payment thereof

to issue time warrants or negotiable bonds, and to levy and collect taxes in payment of such warrants or bonds; and declaring an emergency. Acts 1949, 51st Leg., p. 1121, ch. 575.

**Art. 2351c. Court houses and criminal court buildings; maintenance and operation employees under control of commissioners' courts in counties of over 500,000**

Repair of court houses by commissioners courts, see art. 2351.



**Art. 2351d. Purchases through State Board of Control**

Section 1. The Commissioners Court of each county, from and after the effective date of this Act, is hereby authorized to purchase any road machinery, road equipment, tires and tubes to be used by the county through the State Board of Control. If the Commissioners Court elects to purchase such road machinery, road equipment, tires and tubes by and through the State Board of Control, such road machinery, road equipment, tires and tubes shall be purchased on competitive bids under such rules and regulations as may be made by the State Board of Control. Such purchases shall be made on requisition of the Commissioners Court. The Commissioners Court making such requisition for the purchase of any road machinery, road equipment and tires and tubes shall, when sending in the requisition therefor, include therewith a general description of the article desired and shall certify the funds that will be available to pay therefor.

Sec. 2. The State Board of Control shall have the power to make any rules or to adopt any regulations to effectuate the purpose of this Act.

Sec. 3. This Act shall be cumulative and in addition to all of the laws pertaining to the purchase of road machinery, road equipment, tires and tubes by counties and shall be construed as an additional method for such purchase.

Sec. 4. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act is held invalid, such invalidity shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity. Acts 1949, 51st Leg., p. 345, ch. 172.

Emergency. Effective May 13, 1949.

**Title of Act:**

An Act authorizing counties of this State to purchase road machinery, road equipment, tires and tubes by and through the State Board of Control; prescribing the

method therefor; providing this Act shall be cumulative; providing a severability clause; and declaring an emergency. Acts 1949, 51st Leg., p. 345, ch. 172.

**Art. 2351e. Public cemeteries; expenditures for maintenance and upkeep****Counties of 1,000 to 1,300 population**

Section 1. Commissioners Courts of those counties in this State having a population of not less than one thousand (1,000) nor more than one thousand, three hundred (1,300) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries in their respective counties.

**Counties of 1,800 to 2,000 population**

Sec. 2. Commissioners Courts of those counties in this State having a population of not less than one thousand, eight hundred (1,800) nor more than two thousand (2,000) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries in their respective counties.

**Counties of 2,000 to 2,300 population**

Sec. 3. Commissioners Courts of those counties in this State having a population of not less than two thousand (2,000) nor more than two thousand, three hundred (2,300) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the

General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

**Counties of 2,500 to 2,800 population**

Sec. 4. Commissioners Courts of those counties in this State having a population of not less than two thousand, five hundred (2,500) nor more than two thousand, eight hundred (2,800) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

**Counties of 3,500 to 3,800 population**

Sec. 5. Commissioners Courts of those counties in this State having a population of not less than three thousand, five hundred (3,500) nor more than three thousand, eight hundred (3,800) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

**Counties of 4,000 to 4,225 population**

Sec. 6. Commissioners Courts of those counties in this State having a population of not less than four thousand (4,000) nor more than four thousand, two hundred and twenty-five (4,225) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

**Counties of 4,300 to 4,500 population**

Sec. 7. Commissioners Courts of those counties in this State having a population of not less than four thousand, three hundred (4,300) nor more than four thousand, five hundred (4,500) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

**Counties of 6,250 to 6,350 population**

Sec. 8. Commissioners Courts of those counties in this State having a population of not less than six thousand, two hundred and fifty (6,250) nor more than six thousand, three hundred and fifty (6,350) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

**Partial invalidity**

Sec. 9. If any part, Section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have enacted, and does here now enact, such remaining portions despite any such invalidity. Acts 1949, 51st Leg., p. 961, ch. 529.

Emergency. Effective July 1, 1949.

**Art. 2368a. Requirements governing advertising for bids by counties and cities****Competitive bidding for contracts for public works; advertisements**

Sec. 2. No county, acting through its Commissioners Court, and no city in this State shall hereafter make any contract calling for or requiring the expenditure or payment of Two Thousand (\$2,000.00) Dollars or more out of any fund or funds of any city or county or subdivision of any county creating or imposing an obligation or liability of any nature or character upon such county or any subdivision of such county, or upon such city, without first submitting such proposed contract to competitive bids. Notice of the time and place when and where such contracts shall be let shall be published in such county (if concerning a county contract or contracts for such subdivision of such county) and in such city, (if concerning a city contract), once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. The court and/or governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this State in accordance with the provisions of Article 5160, Revised Statutes of 1925, and amendments thereto. If there is no newspaper published in such county, the notice of the letting of such contract by such county shall be given by causing notice thereof to be posted at the County Court House door for fourteen (14) days prior to the time of letting such contract. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the City Hall for fourteen (14) days prior to the time of letting such contract. Provided, that in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens, or to preserve the property of such county, subdivision, or city, or when it is necessary to preserve or protect the public health of the citizens of such county or city, or in case of unforeseen damage to public property, machinery or equipment, this provision shall not apply; and provided further, that it shall not be applied to contracts for personal or professional services, nor to work done by such county or city and paid for by the day, as such work progresses.

Provisions in reference to notice to bidders, advertisement thereof, requirements as to the taking of sealed bids based upon specifications for public improvements or purchases, the furnishing of surety bonds by contractors and the manner of letting of contracts, as contained in the charter of a city, if in conflict with the provisions of this Act, shall be followed in such city notwithstanding any other provisions of this Act.

Any and all such contracts or agreements hereafter made by any county or city in this State, without complying with the terms of this section, shall be void and shall not be enforceable in any Court of this State, and the performance of same and the payment of any money thereunder may be enjoined by any property taxpaying citizen of such county or city. Provided, however, that the provisions of this Act shall not apply to counties having a population of more than three hundred fifty thousand (350,000) inhabitants according to the last preceding or any

future Federal Census. As amended Acts 1949, 51st Leg., p. 1064, ch. 549, § 1; Acts 1949, 51st Leg., p. 1098, ch. 560, § 1.

Emergency. Effective June 24 and July 21, 1949.

Section 2 of the amendatory act of 1949 is published as art. 2368a—1.

Acts 1949, ch. 36, p. 67 [Art. 2368f], relating to the issuance of time warrants in counties with a population in excess of 300,000 by section 3 excepts section 2 of this article, as amended, from the repeal of conflicting laws except as to the warrants authorized by that act.

Section 3 of Acts 1949, 51st Leg., p. 1098, ch. 560, read as follows: "All General and Special Laws in conflict herewith, except

House Bill No. 106 enacted by the 51st Legislature, Regular Session, 1949 [Art. 2368f], are by this Act expressly repealed; provided, however, that this Act shall not limit or affect the authority granted by Section 5 and Section 6 of Chapter 163, Acts of the 42nd Legislature of Texas, Regular Session, 1931 [this article], in the making of expenditures and the issuance of warrants as therein provided, except as such Section 5 and Section 6 are limited by House Bill No. 106, enacted by the 51st Legislature, Regular Session, 1949."

### Art. 2368a—1. Validation of contracts, scrip, warrants and proceedings

In every instance, since the approval by the Governor of Texas on May 3, 1947 of Chapter 173, Acts of the 50th Legislature of Texas, Regular Session, 1947,<sup>1</sup> where the Commissioners Court of a county or the governing body of a city in this State has entered into contracts for the construction of public works, the purchase of land or interests in land, or the furnishing of materials, supplies, equipment, labor, supervision or professional services, and has authorized or issued scrip or time warrants to pay or evidence the indebtedness of such county or city for the cost of such public works, land, materials, supplies, equipment and personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved; provided that no such scrip or time warrants shall be ratified, validated, confirmed and approved by this Act unless the Commissioners Court or governing body, as the case may be, shall have heretofore specifically found and declared that such county or city has actually received the full benefit of the work performed or the land, materials, supplies, equipment or services furnished to the full extent of the amount of scrip or time warrants so authorized or issued. It is expressly provided, however, that this Section 2 shall not validate, ratify or confirm any contract, time warrant or scrip warrant executed or issued by any county with a population in excess of three hundred twenty-five thousand (325,000) according to the last preceding Federal Census, or any contract, time warrant or scrip warrant the validity of which is involved in litigation at the time this Act becomes effective. Acts 1949, 51st Leg., p. 1098, ch. 560, § 2.

<sup>1</sup> Article 2368a.

Section 1 of the Act of 1949, p. 1098, ch. 560, is published as act 2368a, § 2.

Acts 1949, 51st Leg., p. 1064, ch. 549, § 2, contained provisions almost identical with this article. It read as follows: "In every instance, since the approval by the Governor of Texas on May 3, 1947 of Chapter 173, Acts of the 50th Legislature of Texas, Regular Session, 1947, where the Commissioners Court of a county or the governing body of a city in this State has entered into contracts for the construction of public works, the purchase of land or interests in land, or the furnishing of materials, supplies, equipment, labor, supervision or professional services, and has authorized or issued scrip or time warrants to pay or evidence the indebtedness of such county or

city for the cost of such public works, materials, supplies, equipment and personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved; provided that no such scrip or time warrants shall be ratified, validated, confirmed and approved by this Act unless the Commissioners Court or governing body, as the case may be, shall have heretofore specifically found and declared that such county or city has actually received the full benefit of the work performed or the land, materials, supplies, equipment or services furnished to the full extent of the amount of scrip or

time warrants so authorized or issued. It is expressly provided, however, that this Section 2 shall not validate, ratify or confirm any contract, time warrant or scrip warrant executed or issued by any county with a population in excess of 325,000 according to the last preceding Federal Census or any contract, time warrant or scrip warrant the validity of which is involved in litigation at the time this Act becomes effective."

Section 3 of the acts of 1949, ch. 549, read as follows: "All General and Special Laws in conflict herewith except House

Bill No. 106 enacted by the 51st Legislature, Regular Session, 1949 [art. 2368f], are by this Act expressly repealed; provided, however, that this Act shall not limit or affect the authority granted by Section 5 and Section 6 of said Chapter 173, Acts of the 50th Legislature of Texas, Regular Session, 1947, in the making of expenditures and the issuance of warrants as therein provided, except as such Section 5 and Section 6 are limited by House Bill No. 106, enacted by the 51st Legislature, Regular Session, 1949."

#### Art. 2368f. Time warrants; issuance in counties with 300,000 population

Section 1. In all counties having a population in excess of three hundred thousand (300,000) inhabitants according to the last preceding or any future Federal Census, the Commissioners Court shall have no authority or power to issue time warrants until and unless the same have been authorized by a majority vote of the qualified electors who own taxable property in the county and have duly rendered the same for taxation voting at an election therefor, such election to be held under the authority of and in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of Texas of 1925. Provided, that in case of public calamity caused by fire, flood, storm, or to protect the public health, or in case of unforeseen damage to public property, machinery, or equipment, the Commissioners Court may issue such time warrants in the aggregate amount of not exceeding Fifty Thousand Dollars (\$50,000) during any one calendar year as are necessary to provide for the immediate repair, preservation or protection of public property, and the lives and health of the citizens of the county without the necessity of such election.

Sec. 2. This Act shall not be construed to apply to time warrants of such counties issued or authorized to be issued prior to the effective date of this Act. Acts 1949, 51st Leg., p. 67, ch. 36.

Emergency. Effective March 11, 1949.

Sections 3 and 4 of the amendatory act of 1949, read as follows:

"Sec. 3. All laws or parts of laws, General or Special, in conflict with the provisions of this Act are hereby repealed to the extent of the conflict; however, nothing contained in this Act shall be construed as repealing Section 2 of Chapter 163 of the Acts of the Forty-second Legislature, as amended [art. 2368a], except in so far as the Fifty Thousand Dollars (\$50,000) emergency time warrants provided for in Section 1 hereof are concerned.

"Sec. 4. Nothing herein shall be construed as modifying or repealing or in any manner affecting the provisions of Section 6, Acts 1937, Forty-fifth Legislature, Second Called Session, page 1953, Chapter 52,

Section 2, the same being otherwise designated as Article 2997a, Section 6, Vernon's Revised Civil Statutes."

Saved from repeal, see note to art. 2368a.

#### Title of Act:

An Act regulating the issuance of time warrants by counties having a population in excess of three hundred thousand (300,000) inhabitants according to the last preceding or any future Federal Census; providing that this Act shall not apply to time warrants of such counties issued or authorized to be issued prior to effective date of this Act, and containing certain other exceptions; repealing all laws and parts of laws in conflict with this Act; and declaring an emergency. Acts 1949, 51st Leg., p. 67, ch. 36.

#### Art. 2370a. County office buildings; additional jail facilities; juvenile detention homes

Section 1. Whenever the Commissioners Court of any county determines that the county courthouse is not adequate in size or facilities to properly house all county offices and permit the proper exercise of the

duties of such offices, and/or that the county jail is not adequate in size or facilities to properly confine prisoners, and/or that there is a need for a detention home or homes for delinquent children, said Commissioners Court may purchase, construct, or otherwise acquire a county office building or buildings for such offices for which the courthouse is not adequate, additional jail facilities, and/or a juvenile detention home or homes, including the site or sites therefor. Without limitation of the generalization of the foregoing, any such building or improvement may include an auditorium to be used by the Commissioners Court or any other county officer or county office for any proper county purpose. Payment for such buildings or improvements, including the site or sites therefor, shall be made from the Constitutional Improvement Fund.

Sec. 2. To pay for such building or buildings, jails, or detention homes, including the site or sites therefor, the Commissioners Court is hereby authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, the issuance of such bonds and the levy and collection of taxes to be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, governing the issuance of bonds by cities, towns, and/or counties in this State; provided, however, that each proposition shall be separately submitted in any bond election. Acts 1949, 51st Leg., p. 100, ch. 60.

Emergency. Effective March 28, 1949.

Sections 3 and 4 of the Act of 1949 read as follows:

"Sec. 3. This Act shall be cumulative of other laws on the same subject and shall terminate on September 1, 1951.

"Sec. 4. This Act shall cease to exist and be of no force and effect from and after two (2) years from the effective date hereof."

**Title of Act:**

An Act to authorize Commissioners Courts to purchase, build, construct, or otherwise acquire county office buildings,

additional county jail facilities, and detention homes for delinquent children; providing for the payment therefor; authorizing the issuance of negotiable bonds for such purposes and the levy and collection of taxes in payment thereof; providing that the provisions of this Act are in addition to powers given by, and are cumulative of, all other provisions of the Civil Statutes of the State of Texas; providing that this Act shall cease to exist and be of no force and effect from and after two (2) years from the effective date of this Act; and declaring an emergency. Acts 1949, 51st Leg., p. 100, ch. 60.

**Art. 2372d—2. Buildings and permanent improvements for annual exhibits**

Section 1. The Commissioners Court of any county is hereby authorized to purchase, build, or construct buildings and other permanent improvements to be used for annual exhibits of horticultural and agricultural products, and/or livestock and mineral products of the county. Such building or buildings and other permanent improvements may be located in the county at such place or places as the Commissioners Court may determine. Payment for such building or buildings and other permanent improvements shall be made from the Constitutional Permanent Improvement Fund.

Sec. 2. To pay for such building or buildings and other permanent improvements, the Commissioners Court is hereby authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, the issuance of such bonds and the levy and collection of taxes to be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas 1925, governing the issuance of bonds by cities, towns, and/or counties in this State. Acts 1949, 51st Leg., p. 764, ch. 411.

Emergency. Effective June 14, 1949.

**Art. 2372h. Hours of work, vacations, sick leave, hospitalization, etc., in counties of 500,000 or more; flood control districts; personnel system**

**Persons subject to regulations**

Sec. 6. Juvenile officers and probation officers appointed under the terms of Title 82, Revised Civil Statutes of Texas, 1925, as amended,<sup>2</sup> shall be subject to the provisions of such regulations as hereinbefore provided, including those for retirement, to the extent that the juvenile board of any county affected by this Act may determine. In like manner, court reporters in the various courts in such counties shall be subject to the provisions of such regulations to the extent that a majority of the District Judges of such counties in meeting assembled may determine by a vote of the majority present; an order to be entered in the minutes of each of the courts of such judges and a certified copy thereof to be supplied to the Commissioners Court. In like manner, the County Auditor and his assistants in such counties shall be subject to the provisions of such regulations hereinbefore provided for to the extent that the County Auditor in such counties may determine, with the approval of the District Judges, or a majority of them; unless a majority of the judges of the District Courts in such counties voting in a meeting of which all of the District Judges shall have notice, shall adopt the rules and regulations promulgated by the Commissioners Court and make them uniformly applicable so far as practicable to all the juvenile, probation officers, court reporters, and the County Auditor and his assistants. Nothing contained herein shall be construed as authorizing any change in regard to the time, method and manner of appointment or discharge of juvenile and probation officers, or the County Auditor or his assistants, or court reporters, or as authorizing any change in the number thereof or the salaries to be paid, it being the intention of the Legislature that all of such matters shall continue to be regulated by the Statutes applying thereto. If any juvenile, or probation officer, or County Auditor or his assistants shall be jointly employed by two (2) or more subdivisions of Government, the rules and regulations applying to them may be adapted or amended accordingly. For the purpose of adapting such regulations to such employees, they may, if necessary to give equal application to the regulations to all employees, be considered as being upon the same basis as if they were employed by one such unit, and the total salary paid by such unit, and the necessary expense of administration and contributions may be prorated to the different employing units. As amended Acts 1949, 51st Leg., p. 433, ch. 233, § 1.

Emergency. Effective May 20, 1949.

<sup>2</sup> Article 5119 et seq.

**Art. 2372i. Burial ground for veterans**

Each Commissioners Court in this State may purchase sufficient burial ground to be used exclusively for the burial of any honorably discharged person who has served in any branch of the armed forces of the United States during any war in which the United States participated, and who may hereafter die without leaving sufficient means to defray funeral expenses. Provided, however, that the Commissioners Court shall not purchase such burial ground in any instance where there is situated within the county a national military cemetery or other military plot in which honorably discharged veterans of the armed forces of the United

States of America may be buried free of charge. Acts 1949, 51st Leg., p. 734, ch. 396, § 1.

Emergency. Effective June 13, 1949.

**Title of Act:**

An Act allowing the Commissioners Court of each county in this State to purchase burial ground for the purpose of burying honorably discharged veterans of the arm-

ed forces of the United States of America, who may hereafter die without leaving sufficient means to defray funeral expenses; making certain exceptions; and declaring an emergency. Acts 1949, 51st Leg., p. 734, ch. 396.

**Art. 2372j. County office building and other buildings; certain counties of 90,000 to 225,000**

Section 1. In all counties having a population in excess of ninety thousand (90,000) persons and not more than two hundred and twenty-five thousand (225,000) persons according to the last preceding Federal Census, having an assessed valuation on property for ad valorem tax purposes of more than One Hundred and Twenty-five Million Dollars (\$125,000,000) and having at least four (4) incorporated cities within the county, at least one (1) of which cities having a population of more than fifty thousand (50,000) inhabitants according to the last preceding Federal Census, whenever the Commissioners Court of any such county determines that the county courthouse is not adequate in size or facilities to properly house all county offices and permit the proper exercise of the duties of such office, and/or that the county jail is not adequate in size or facilities to properly confine prisoners, and/or that there is a need for an agricultural building, said Commissioners Court may purchase, construct, or otherwise acquire either in the city of the county seat or elsewhere in the county, a county office building or buildings for any such offices for which the courthouse is not adequate, and/or for which there is a need, including the site or sites therefor. Without limitation of the generalization of the foregoing, any such jail, agricultural building, or other structure or improvement may include an auditorium to be used by the Commissioners Court or any other county officer or county office for any proper county purpose or public purpose. Payment for such buildings or improvements, including the site or sites therefor, shall be made from the Constitutional Permanent Improvement Fund.

Sec. 2. All proceedings heretofore had by the Commissioners Court of any such county within the past two (2) years providing for and/or establishing any of the buildings herein authorized by Section 1 of this Act, are hereby approved and validated as the proper, lawful and authorized proceedings of any such county and/or its Commissioners Court; provided, however, nothing in this Act shall affect any case or cause of action now pending in any court in this State.

Sec. 3. This Act shall be cumulative of all other laws on the same subject.

Sec. 4. If any Section, subsection, sentence, phrase or word of this Act shall be held unconstitutional or invalid, such invalidity shall not affect the remaining portions of this Act and the Legislature hereby declares it would have enacted such remaining portions despite such invalidity. Acts 1949, 51st Leg., p. 781, ch. 421.

Emergency. Effective June 14, 1949.



**TITLE 46—CREDIT ORGANIZATIONS****1. RURAL CREDIT UNIONS**

Art.

2434b. Advisory commission [New].

**1. RURAL CREDIT UNIONS****Article 2461. Credit union defined**

The credit union is hereby defined as a co-operative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident and productive purposes. The capital stock of credit unions organized under the provisions of this Title shall be divided into shares of Five Dollars (\$5). As amended Acts 1949, 51 St.Leg., p. 346, ch. 173, § 1.

Emergency. Effective May 13, 1949.

Section 12 of the amendatory act of 1949 read as follows: "If any provision, section, part, subsection, sentence, clause, phrase, or paragraph of this Act be declared in-

valid or unconstitutional, the same shall not affect any other portion or provision hereof, and all other provisions shall remain valid and unaffected by any invalid portion, if any."

**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 fifty per cent (50%) of its capital and surplus, as that term is herein defined. 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. A credit union may also invest such surplus and accumulated funds in shares of stock, insured by the Federal Savings & Loan Insurance Corporation, which are issued by a building and loan association, or savings and loan association, domiciled in the State; and it may make loans to other State and Federal credit unions domiciled in this State, provided that such investments in shares of building and loan associations or savings and loan associations, and loans to other credit unions shall never aggregate more than twenty-five per cent (25%) of the capital and surplus of such credit union making such investments and loans." As amended Acts 1949, 51st Leg., p. 346, ch. 173, § 2.

Emergency. Effective May 13, 1949.

**Art. 2464. May incorporate**

No person, partnership, association or corporation, except corporations formed under the provisions of this law shall hereafter transact business under any name or title which contains the words 'credit union', except those expressly authorized to be formed under the provisions of this law, or under the provisions of any applicable Federal law. As amended Acts 1949, 51st Leg., p. 346, ch. 173, § 3.

Emergency. Effective May 13, 1949.

**Art. 2465. Supervision; Credit Union Examiners; expenses**

Such credit union shall maintain such books and records as the Banking Commissioner may deem necessary. The Banking Commissioner shall cause each credit union to be examined at least once yearly, such examination to be made by:

(1) One or more credit union examiners who shall be appointed by the Banking Commissioner and shall receive a salary of not exceeding Three Hundred Dollars (\$300) per month and shall receive all necessary traveling expenses, a sworn itemized account of which shall be rendered monthly by each examiner and approved by the Commissioner; or by

(2) The Deputy Commissioner, departmental examiner, any bank examiner, assistant bank examiner, building and loan supervisor, building and loan examiner, or loan and brokerage-credit union supervisor.

Each credit union examined shall pay an examination fee fixed by the Banking Commissioner not to exceed Thirty-two Dollars (\$32) per day per person engaged in each examination or a total fee of Three Dollars and Fifty Cents (\$3.50) per One Thousand Dollars (\$1,000) of assets or fraction thereof as reflected by the examination, whichever is lower. Such fees, together with any other fees, penalties or revenues collected by the Commissioner pursuant to the provisions of this Act or pursuant to other laws of this State relative to corporations under the supervision of the Banking Department, shall be paid by the Commissioner to the State Treasurer to the credit of the General Revenue Fund. The expenses of examination and of the Commissioner in enforcing the provisions of this Act shall be paid upon the certificate of the Commissioner by warrant of the Comptroller upon the State Treasury." As amended Acts 1949, 51st Leg., p. 346, ch. 173, § 4.

Emergency. Effective May 13, 1949.

**Art. 2468. Meetings**

The fiscal year of every such association shall end at the close of business on the thirty-first day of December. The annual meeting of the association shall be held at such time and place as the bylaws prescribe. Special meetings may be held by order of the directors or of the supervisory committee, or upon written request of ten (10) members of the credit union. Notice of all meetings of the association shall be given in the manner prescribed by the bylaws. No person shall be entitled to vote who has not been a member for more than three (3) months but this restriction shall not apply during the first twelve (12) months of the existence of the association, nor shall any member vote by proxy or have more than one (1) vote. At the annual meeting, the members shall upon recommendation of the board of directors declare dividends and fix the amount of the entrance fee. At any meeting the members may decide upon any question of interest to the association, and upon appeal of two (2) members may reverse the decisions of the credit committee or board of directors; and, by a three-fourths (3/4) vote of those present, provided notice of the meeting shall have specified the question to be considered, may amend the bylaws. As amended Acts 1949, 51st Leg., p. 346, ch. 173, § 5.

Emergency. Effective May 13, 1949.

**Art. 2469. Board of Directors**

At the annual meeting the members shall elect a board of directors of not less than five (5) members and a supervisory committee of three

(3) members. No member of the board of directors or credit committee shall be a member of the supervisory committee. All members thereof, as well as all officers whom they elect, shall be sworn, and shall hold their several offices until others are elected and qualified in their stead. A record of every such qualification shall be filed and preserved with the records of the association. As amended Acts 1949, 51st Leg., p. 346, ch. 173, § 6.

Emergency. Effective May 13, 1949.

#### Art. 2470. Officers

At their first meeting the board of directors shall elect from their number a president, vice-president, clerk and a treasurer, who shall be the executive officers of the association. The board of directors shall have the general management of the affairs, funds and records of the association, and shall meet as often as may be necessary. It shall be their special duty:

1. To act upon all applications for membership.
2. To act upon the expulsion of members.
3. To fix the amount of surety bond which shall be required of each officer having custody of the funds.
4. To determine the rate of interest on loans.
5. To fill vacancies in the board of directors or in the credit committee of the association until the election and qualification of officers to fill said vacancies.
6. To determine the maximum number of shares which may be held by any one (1) member.
7. To determine the maximum amount which may be lent to any one (1) member.
8. To make recommendations to meetings of the members relative to the amount of entrance fee; the dividend to be declared; amendments to the bylaws and any other matters which in their opinion, the members should decide. As amended Acts 1949, 51st Leg., p. 346, ch. 173, § 7.

Emergency. Effective May 13, 1949.

#### Art. 2471. Credit committee

The board of directors shall elect a credit committee of not less than three (3) members and the members thereof shall hold office until their successors are elected and qualified. The credit committee shall approve every loan or advance made by the association. Every application for a loan shall be made in writing and shall state the purpose for which the loan is desired, and the security offered. No loan shall be made unless the credit committee is satisfied that it promises to benefit the borrower, nor unless it has received the unanimous approval of those members of said committee who were present when it was considered, nor if any member of said committee shall disapprove thereof; but applicant for a loan may appeal from the decision of the credit committee to the board of directors. As amended Acts 1949, 51st Leg., p. 346, ch. 173, § 8.

Emergency. Effective May 13, 1949.

#### 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 committees, nor shall any member of said board or committees, either directly or indirectly, borrow from or become surety for any loan or advance made by the association except in a sum not to ex-

ceed his holdings in the credit union as represented by shares thereof, or upon approval of the credit committee and approval by two-thirds (2/3) of the members of the board of directors. No loan shall be granted except for productive or provident purposes, or urgent needs, nor for a longer period than sixty (60) 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.<sup>1</sup> Loans to any one (1) 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 1949, 51st Leg., p. 346, ch. 173, § 9.

<sup>1</sup> 38 U.S.C.A. § 693 et seq.

Emergency. Effective May 13, 1949.

#### **Art. 2484. Report to Commissioner**

Within thirty (30) days after the last business day of December of each year, every such association shall make to the Banking Commissioner a report in such form as he may prescribe, signed by the president, treasurer, and a majority of the supervisory committee, who shall certify and take oath that the said report is correct according to their knowledge and belief. Said credit union shall pay to the Banking Commissioner at the time of the filing of this report the sum of Ten Dollars (\$10) as a filing fee. Any such association that shall neglect to make the said report within the time herein prescribed shall forfeit to the State, Five Dollars (\$5) for each day during which said neglect shall continue. The Banking Commissioner may, however, for good cause shown, extend the time of filing of said report not more than sixty (60) days. All such associations shall be exempt from all franchise or other license tax; nor shall any intangible property of such associations be taxable by this State or any political subdivision thereof. As amended Acts 1949, 51st Leg., p. 346, ch. 173, § 10.

Emergency. Effective May 13, 1949.

#### **Art. 2484b. Advisory commission**

For the purpose of assisting in the organization and development of credit unions and to advise the Banking Commissioner in the performance of his duties under this title, there shall be created an advisory commission consisting of five (5) members which shall have such powers and perform such duties as are prescribed by law. Members of the advisory commission shall be appointed by the Governor from a list submitted by credit unions operating in this State. All members of the advisory commission shall have at least five (5) years experience in the operation of a credit union. Members of the advisory commission shall serve for terms of three (3) years, each term so arranged that no three (3) terms expire during the same year. Vacancies shall be filled in the manner of original appointments by the Governor. Members of the advisory commission shall receive no salary. The advisory commission shall meet at least once annually. Special meetings may be called either by the chairman of the advisory commission or the Banking Commissioner. The chairman of the advisory commission shall be elected annually by the members thereof. The Banking Commissioner shall confer with the said advisory committee from time to time relative to policies and problems affecting credit unions, and the advisory commission shall advise with the Banking Commissioner in improving the condition and service of credit unions. Added Acts 1949, 51st Leg., p. 346, ch. 173, § 11.

Emergency. Effective May 13, 1949.

**TITLE 47—DEPOSITORIES****CHAPTER ONE—STATE DEPOSITORIES****Article 2525. 2417 Depository Board**

Texas Municipal Retirement System,  
funds of, see art. 6243h, § 8.

**CHAPTER TWO—COUNTY DEPOSITORIES****Art. 2553. 2448 Depository not located at county seat**

If any depository selected by the Commissioners Court be not located at the seat of such county, said Commissioners Court may in its discretion require said depository to file with the county treasurer of such county a statement designating the place at said county seat where, and the person by whom, all deposits may be received from the treasurer for such depository, and where and by whom all checks will be paid, said person to be approved by the Commissioners Court; and such depository shall cause every check to be paid upon presentation or upon presentation at the expiration of the period of notice in the case of "time deposits" at the place so designated so long as the said depository has sufficient funds to the credit of said county applicable to its payment. As amended Acts 1949, 51st Leg., p. 187, ch. 103, § 1.

Emergency. Effective May 3, 1949.

TITLE 49—EDUCATION—PUBLIC

<b>Chap.</b>	<b>Art.</b>
7A. Lamar State College of Technology [New] - - - - -	2637a
9B. Administration of Public Free Schools [New] - - - - -	2654—1
22. Foundation School Program [New] - - - - -	2922—11

CHAPTER ONE—UNIVERSITY OF TEXAS

2. FUNDS AND PROPERTIES	3. GENERAL PROVISIONS
<b>Art.</b>	<b>Art.</b>
2592a. Term of surface leases [New].	2606b. Medical department or branch [New].

2. FUNDS AND PROPERTIES

Art. 2592. 2643 Improvements

That part of this article which limits all surface leases on University lands to a period of not more than ten years is repealed by Acts 1949, 51st Leg., p. 674, ch. 347, § 3.

Art. 2592a. Term of surface leases

Section 1. Surface leases on University lands may be made by the Board of Regents of The University of Texas for such term as it may deem to be for the best interest of the University, not in conflict with the provisions of Chapter 174, Acts, Regular Session, 48th Legislature,<sup>1</sup> relating to the granting of right-of-way easements for certain purposes on and across such lands; provided that no grazing lease shall be made for a period of more than ten years.

Sec. 2. All contracts or agreements heretofore made by the Board of Regents of The University of Texas in conformity with the purposes and authority hereby granted, be and the same are hereby ratified, confirmed, and validated in all respects as though this Act had been in effect at the time of the making of any such contracts or agreements.

Sec. 3. Part only of Article 2592 of the Revised Civil Statutes of Texas, 1925, as amended, which limits all surface leases on University lands to a period of not more than ten years, is hereby repealed; otherwise this Act shall be construed as cumulative of said existing law. Acts 1949, 51st Leg., p. 674, ch. 347.

<sup>1</sup> Article 6020a.

Emergency. Effective June 10, 1949.  
 Title of Act: An Act authorizing the Board of Regents of The University of Texas to fix the term of all surface leases on University lands, except right-of-way easements and grazing leases which shall be limited to not more than ten years; validating prior leases; and declaring an emergency. Acts 1949, 51st Leg., p. 674, ch. 347.

Art. 2597. 2634 Control of mineral lands

The Board of Regents of The University of Texas is hereby invested with the sole and exclusive management and control of all minerals, other than oil and gas, in University lands. Said Board of Regents is hereby empowered and authorized to sell, lease, and otherwise manage and control said minerals, other than oil and gas, belonging to said University in said lands as may seem best to it for the interests of the University; and said Board is hereby furthered empowered to explore and have explored and developed said minerals and to make any con-

tract or contracts with any person, association of persons, firm or corporation for the exploration, development, mining, production, disposition, and sale of said minerals in said University lands. As amended Acts 1949, 51st Leg., p. 362, ch. 186, § 1.

Emergency. Effective May 14, 1949.

Section 2 of the amendatory Act of 1949 repealed all conflicting laws and parts of laws.

Section 3, declaring an emergency recites that Senate Concurrent Resolution No. 8 passed by the First Called Session of the 42nd Legislature, which became effective August 10, 1931, withdrew from sale, lease, or mineral permit all mineral de-

posits, other than oil and gas, in University lands until such time as the Legislature should again provide by law for such sale or lease of said minerals, and by reason of said fact that neither the Board of Regents of The University of Texas nor any other state agency had authority to manage, control, and dispose of minerals, other than oil and gas, in University lands.

### 3. GENERAL PROVISIONS

#### Art. 2606b. Medical department or branch

##### Establishment and location

Section 1. The Board of Regents of The University of Texas is hereby authorized and directed to establish a Medical Department or Branch of The University of Texas within the State of Texas at such location, other than Galveston, as the Board of Regents may select. In making such selection, the Board of Regents shall take into consideration, but not be limited to, population centers, hospital facilities, available teaching personnel and clinical material and facilities. Provided however, that the Board of Regents shall take no action pursuant to the terms of this Act until an appropriation has been made for the purpose of carrying out the provisions of this Act.

##### Committee to make survey and location

Sec. 1a. The House of Delegates of the Texas State Medical Association is hereby appointed as a committee to make the survey and location as provided in Section 1 of the Act, and shall report to the Board of Regents of the University of Texas a location for the establishment of a Medical School.

##### Courses; rules and regulations

Sec. 2. The Board of Regents of The University of Texas shall have the authority to prescribe courses leading to customary degrees, and to make such other rules and regulations for the operation, control and management of the new Medical Department of The University of Texas as may be necessary for its conduct as a medical college of the first class.

##### Name; fees and other receipts

Sec. 3. The Board of Regents of The University of Texas shall select a suitable name for such Medical Department of The University of Texas and shall fix the amount of tuition and fees to be charged in said Medical Branch, and all moneys and fees and all other receipts of said Medical Branch are hereby appropriated to said Medical Branch to be expended under the direction and with the approval of the Board of Regents of The University of Texas. Should the Legislature, however, appropriate these funds in any general or special appropriation bill, and itemize or otherwise direct the expenditure of such funds for the use of said Medical Branch, such action shall control over the provisions of this section.

**Gifts and donations**

Sec. 4. The Board of Regents of The University of Texas is hereby authorized to accept and administer, upon terms and conditions satisfactory to it, grants or gifts of property or money which may be tendered to it in aid of research and teaching at the said new Medical Branch of The University of Texas. The Board of Regents is further authorized and empowered to accept from the Federal Government, any foundation, trust fund, corporation or individual donations, gifts and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records and leases for the exclusive use and benefit of the new Medical Branch of The University of Texas. Before acceptance of such gifts, grants, and donations, the Board of Regents shall secure the opinion of the Attorney General on the title of all real property to be conveyed. The Board of Regents shall not locate the Medical Department or School herein provided for upon the premises of any existing Medical School or Department without first receiving, in the name of the State of Texas, title to all properties, funds, endowments and assets of such existing Medical School or Department.

**Buildings and improvements**

Sec. 5. Immediately upon selection of the site of the new Medical Branch of The University of Texas, the Board of Regents shall proceed with the planning and construction of buildings and other improvements necessary for the conduct and operation of a first class medical college with entering classes of not less than one hundred (100). The entering classes of one hundred (100) as provided in this section shall be in addition to the total number of entering classes in all of the present Medical Schools in the State of Texas.

**Partial unconstitutionality**

Sec. 6. The fact that any word, phrase, clause, sentence, paragraph, section or sections of this Act may be declared unconstitutional or invalid by the Courts, shall not affect the constitutionality or validity of the remainder thereof. Acts 1949, 51st Leg., p. 888, ch. 479.

Emergency. Effective June 28, 1949.

**CHAPTER TWO—AGRICULTURAL AND MECHANICAL COLLEGE**

Art. 2615d. Adjunct of College authorized to be located in Kimble County [New].	2615e. Research and experimentation for state highway department [New].
---	---

West Texas State College and Texas Agricultural and Mechanical College, Airport, see art. 2919c

**Art. 2610. 2657-60 The Board of Directors**

Workmen's Compensation Insurance for employees, see art. 8309b.

**Art. 2613a—1. Permanent improvements authorized**

Change of name to Tarleton State College, see art. 2616a.

**Art. 2615d. Adjunct of College authorized to be located in Kimble County**

Section 1. The Board of Directors of the Agricultural and Mechanical College of Texas is authorized to establish in Kimble County an



adjunct of the College to be located on land furnished without cost to the State of Texas.

Sec. 2. The Board of Directors of the Agricultural and Mechanical College of Texas is authorized to provide at said adjunct any services which conform to the leading object of the Agricultural and Mechanical College of Texas as defined in Article 2608 of the Revised Civil Statutes of Texas, 1925, including research, subject to the following exceptions:

1. No undergraduate course carrying college credit will be offered at the adjunct in Kimble County during the eight (8) months between the first day of October and the first day of June of any school year.

2. Not more than Two Hundred Thousand Dollars (\$200,000) may be expended from available plant funds for buildings and improvements without the specific authorization of the Legislature of Texas.

3. College credits received at the adjunct in Kimble County shall not be counted toward graduation from Agricultural and Mechanical College of Texas, unless an equivalent number of college credits for graduation shall have been received at the Agricultural and Mechanical College of Texas, located at College Station, Texas. Added Acts 1949, 51st Leg., p. 127, ch. 78, § 1.

Emergency. Effective April 13, 1949.

#### Art. 2615e. Research and experimentation for state highway department

Section 1. The State Comptroller of Public Accounts is hereby authorized to draw proper warrants in favor of any part of the Texas Agricultural and Mechanical College System based on vouchers or claims submitted by said System through the State Highway Department covering reasonable fees and charges for services rendered by members of the Staff of said System to the State Highway Department and for equipment and materials necessary for research and experimentation in all phases of highway activity, economics, materials, specifications, design of roadways, construction, maintenance, pavement and structures, traffic control, safety, the economics of highway design and construction, and such other fields of highway design, construction, maintenance or operation, based upon an agreement between the State Highway Department and the Texas Agricultural and Mechanical College System as passed by the State Highway Department on September 29, 1948, and recorded by the State Highway Department as Minute Order Number 25396; and the State Treasurer is hereby authorized and directed to pay warrants so issued against any funds appropriated by the Legislature to the State Highway Department for the construction and maintenance of highways, roads, and bridges. Such payments made to said System shall be credited and deposited to local institutional funds under its control. Acts 1949, 51st Leg., p. 605, ch. 322, § 1.

Emergency. Effective June 6, 1949.

### CHAPTER 3.—TARLETON STATE COLLEGE

Art.

2616a. Change of name [New].

#### Article 2616. Government

Change of name to Tarleton State College, see art. 2616a.

**Art. 2616a. Change of name**

Section 1. The John Tarleton Agricultural College, at Stephenville, Erath County, Texas, shall hereafter be designated "Tarleton State College."

Sec. 2. Wherever the name "John Tarleton Agricultural College," or any reference thereto, appears in the Revised Civil 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 Civil Statutes or in any Court decisions, such name and such reference shall hereafter mean and apply to the Tarleton State College, in order to conform to the new name of said College as provided in Section 1 hereof. Acts 1949, 51st Leg., p. 184, ch. 100.

Emergency. Effective May 1, 1949.

**Title of Act:**

An Act providing for the changing of the name of John Tarleton Agricultural College, at Stephenville, Erath County, Texas, to the "Tarleton State College," and providing that wherever such name or reference of name appears in the Revised Civil

Statutes of Texas, 1925, or any amendment thereto, or in any Acts of any Legislature, passed since the adoption of said Revised Civil Statutes or in any Court decisions, shall mean and apply to the new name; and declaring an emergency. Acts 1949, 51st Leg., p. 184, ch. 100.

**CHAPTER FOUR—ARLINGTON STATE COLLEGE****Art.**

2620a. Governing board; change of name or reference in statutes or court decisions [New].

**Art. 2620. Name**

The North Texas Junior Agricultural, Mechanical and Industrial College at Arlington, Tarrant County, Texas, shall be known as the Arlington State College. As amended Acts 1949, 51st Leg., p. 844, ch. 459, § 1.

Emergency. Effective June 21, 1949.

Sections 2 and 3 of the amendatory act of 1949 are published as art. 2620a.

**Art. 2620a. Governing board; change of name or reference in statutes or court decisions**

Sec. 2. The dual system of Governing Boards for said institution, comprising a supervisory board and a board of local managers, heretofore established by law, is abolished. The said Arlington State College shall be under the direction of the Board of Directors of the Agricultural and Mechanical College of Texas and said Board shall perform all the duties required in the management of said College in like manner as Governing Boards of the same character. The duties, rights and powers imposed and conferred by law on the former Boards are transferred to the said Board of Directors of the Agricultural and Mechanical College; provided that it shall be the duty of said Board to operate, manage and direct said Arlington State College in accordance with the laws of this state and in keeping with the objectives established by the Legislature for said institution.

Sec. 3. Whenever the name "North Texas Junior Agricultural, Mechanical and Industrial College", 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, or in any court decisions, such name and such refer-

ence shall hereafter mean and apply to the Arlington State College, in order to conform to the new name of said College as provided in Section 1<sup>1</sup> hereof. Acts 1949, 51st Leg., p. 844, ch. 459.

<sup>1</sup> Article 2620.

Section 1 of the act of 1949, amends art. 2620.

#### Art. 2623a. Eminent Domain

Change of name of college, see arts. 2620, 2620a.

### CHAPTER 7.—TEXAS WESTERN COLLEGE OF UNIVERSITY OF TEXAS

Art.

2633a. Name changed [New].

#### Art. 2633a. Name changed

Section 1. The School or College of Mines and Metallurgy at El Paso shall hereafter be known and designated as the "Texas Western College of the University of Texas".

Sec. 2. Wherever the name "School of Mines and Metallurgy" or "College of Mines and Metallurgy", or any reference thereto, appears either in the Revised Statutes of Texas, 1925, or in any amendments thereto, or in any of the Acts of the Legislature or Constitutional Amendment, such name and such reference shall hereafter mean and apply to the "Texas Western College of the University of Texas" in order to conform to the new name hereby adopted for said college.

Sec. 3. That all legislative Acts and appropriations and Constitutional Amendment heretofore passed or adopted, either in the name of or by reference to, or any bonds or notes issued by or in the name of, the "College of Mines and Metallurgy" are hereby in all things ratified, confirmed, and validated for and in behalf of the "Texas Western College of the University of Texas".

Sec. 4. That the funds allocated to and the bonds or notes authorized to be issued by or on behalf of the "College of Mines and Metallurgy" under Section 17 of Article 7, Constitution of Texas, being an amendment to said Constitution adopted at an election held August 23, 1947, shall be allocated to and said bonds or notes may be issued by or on behalf of the "Texas Western College of the University of Texas", and any bonds or notes so issued shall have the same force and effect as if issued by or on behalf of the said College of Mines and Metallurgy. Acts 1949, 51st Leg., p. 423, ch. 224.

Emergency. Effective June 1, 1949.

Section 4a provided that this Act shall take effect and be in force and effect from and after June 1, 1949.

## CHAPTER 7A.—TAMAR STATE COLLEGE OF TECHNOLOGY [NEW]

<p>Art.          2637a. Creation of College.          2637b. Organization, control and management.          2637c. The work of the College, courses and degrees.          2637d. Additional courses.</p>	<p>2637e. Appropriations.          2637f. Eminent domain.          2637g. Donations, gifts and endowments.          2637h. Acquisition of properties of junior college district.          2637i. Partial invalidity.</p>
--	--

### Article 2637a. Creation of college

There is hereby established in Texas, in the City of Beaumont, Jefferson County, a co-educational institution of higher learning for the white youth of this State which shall be known as Lamar State College of Technology, to be conducted, operated, and maintained under a Board of Regents, as herein provided. Acts 1949, 51st Leg., p. 751, ch. 403, § 1.

Effective 90 days after July 6, 1949, date Section 9 of the Act of 1949 repealed all of adjournment. conflicting laws and parts of laws.

### Art. 2637b. Organization, control and management

The organization, control and management of such College shall be vested in a Board of nine (9) Regents, who shall be appointed by the Governor of Texas and confirmed by the Senate. The term of office of each Regent shall be six (6) years, provided that in making the first appointment the Governor shall appoint three (3) members for six (6) years. Any vacancy that occurs on the Board shall be filled for the unexpired term by the Governor. The members of said Board shall be removable by the Governor for inefficiency or inattention to the duties of office. Each member of the Board shall take the constitutional oath of office. The said Board of Regents shall meet for the first time after the passage of this Act<sup>1</sup> at the time and place designated by the Governor, or as soon after their appointment as possible. They shall organize by electing a chairman of said Board of Regents and such other officers as they may desire. They shall select a president for the College as soon as possible after the organization of said Board of Regents. They shall fix his term of office, name his salary and define his duties. The president of the College shall be the executive officer for the Board of Regents and shall work under its direction. He shall recommend the plan of organization and the appointment of employees of said College, and shall have the co-operation of said Board of Regents and shall be responsible to said Board for the general management and success of said College. Acts 1949, 51st Leg., p. 751, ch. 403, § 2.

<sup>1</sup> Articles 2637a to 2637i.

### Art. 2637c. The work of the college, courses and degrees

Lamar State College of Technology shall offer and develop and especially stress courses in chemical engineering, industrial chemistry, plastics, and other phases of engineering and technology. Practical vocational and technical courses shall be offered. Such courses of study shall be offered as are found in the senior Colleges of the first rank in similar fields, as the Board of Regents may order. Provided that any Bachelors Degree shall be based on four years of college work, and any higher degree may be offered with appropriate courses when in the judgment of the Board of Regents the educational welfare of the people served by the College demands such advanced courses and degrees, and provided that all work done and all courses, certificates, and diplomas given to students shall conform to standard College requirements as proposed by the ac-

crediting agencies of Texas, of the South, and of other sections of the country. Short courses, terminal courses, long courses, and special courses of practical value to our people shall be given from time to time by Lamar State College of Technology, as the Board of Regents shall order and direct. Acts 1949, 51st Leg., p. 751, ch. 403, § 3.

#### Art. 2637d. Additional courses

The specification of courses of study written in this Act<sup>1</sup> shall not prohibit the Board of Regents from adding other courses, subjects or groups of subjects necessary to enable Lamar State College of Technology to perform its functions as a College of Technology in the most practicable and efficient way. The Board of Regents is required and directed to build and operate a State College of the first rank that shall compare favorably with the splendid Colleges of Texas in the preparation of its youth for the varied interests and industries possible in the section in which Lamar State College of Technology is located. This College shall be equipped adequately to do its work well as other State Colleges perform their functions. Acts 1949, 51st Leg., p. 751, ch. 403, § 4.

<sup>1</sup> Articles 2637a to 2637i.

#### Art. 2637e. Appropriations

The Lamar Union Junior College District of Jefferson County, Texas, now owns and operates a Junior College at Beaumont, Texas, and its corporeal property consists of a campus of approximately sixty-four (64) acres in the City of Beaumont, an Administration Building, Library Building, Science Building, Union Building, Vocations Building, Maintenance Building and bus garage, and athletic field house, Federal emergency housing of twenty (20) units, as well as technical equipment and furnishings, all of which are new and modern and have been constructed and acquired since 1942, and of the reasonable value of more than One Million, Five Hundred Thousand Dollars (\$1,500,000) which will be made available for the exclusive use of the College hereby created. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of One Million Dollars (\$1,000,000) to be used by the Board of Regents of said College in making additional improvements on the campus of said College including an Engineering Building, Technological Laboratory, and such other buildings, facilities, and equipment as the Board of Regents may determine necessary for the establishment of a Technological College of the first class. Acts 1949, 51st Leg., p. 751, ch. 403, § 5.

#### Art. 2637f. Eminent domain

The Lamar State College of Technology shall have the right of eminent domain and shall have the right to proceed under condemnation proceedings the same as now enjoyed by railroad companies under the laws of Texas. Acts 1949, 51st Leg., p. 751, ch. 403, § 6.

#### Art. 2637g. Donations, gifts and endowments

The Board of Regents is authorized to accept donations, gifts and endowments for the Institution to be held in trust and administered by said Board for such purposes and under such directions, limitations and provisions as may be declared in writing in the donation, gift or endowment, not inconsistent with the objects and proper management of said Institution. Acts 1949, 51st Leg., p. 751, ch. 403, § 7.

**Art. 2637h. Acquisition of properties of junior college district**

It is provided, however, that the Board of Regents of Lamar State College of Technology as herein created shall not institute or offer any course of study as herein provided unless and until suitable arrangements are made for the acquisition or use of the corporeal properties and facilities of the Lamar Union Junior College District of Jefferson County, Texas, and the Board of Regents herein created is hereby authorized to acquire by gift the corporeal properties and facilities of Lamar Union Junior College District of Jefferson County, Texas, and it is also hereby authorized to acquire by gift the use of the properties and facilities of Lamar Union Junior College District of Jefferson County, Texas, for such time as may be necessary to acquire the properties themselves. Acts 1949, 51st Leg., p. 751, ch. 403, § 8.

**Art. 2637i. Partial invalidity**

If any word, phrase, clause, sentence, paragraph, Section, or part of this Act <sup>1</sup> shall be held by any Court of competent jurisdiction to be invalid as unconstitutional or for any other reason, it shall not affect any other word, phrase, clause, sentence, paragraph, Section, or part of this Act. Acts 1949, 51st Leg., p. 751, ch. 403, § 10.

<sup>1</sup> Articles 2637a to 2637f.

## CHAPTER EIGHT—UNIVERSITY AND AGRICULTURAL AND MECHANICAL COLLEGE FOR NEGROES

Art.

2643d. Buildings, structures and facilities

[New].

2643e. Funds of institution [New].

**Art. 2643d. Buildings, structures and facilities**

### Construction and equipment authorized

Section 1. The Board of Directors of the Texas State University for Negroes is hereby authorized and empowered to construct and otherwise acquire and equip buildings and structures, and facilities therein, which the Board deems proper or suitable for the students and faculty of the institution, including, but not limited to, student dormitories, faculty dormitories, dining halls, libraries, student activity buildings, stadia, and gymnasias, when the total cost, type of construction, capacity of such buildings, and equipment, as well as the other plans and specifications, have been approved by said Board of Directors.

### Fees and revenues; bonds in anticipation of revenues

Sec. 2. Said Board is further authorized to fix fees, rentals and charges for the use of the buildings erected under the authority of this Act, as well as prices for services rendered and sales made therein and therefrom. It shall be the duty of the Board to fix fees, rentals, charges and prices so that such revenue shall be sufficient to pay the principal and interest on any bonds issued, as hereafter provided, and to provide reasonable reserves as to such. The charges, prices, and rentals to be made, and the fees to be assessed, against the faculty members and students using said buildings and the facilities therein, shall be in amounts deemed to be reasonable by said Board of Directors, taking into consideration the cost of providing said facilities, the use to be made of them, and the advantages to be derived therefrom by the students and faculty members; provided that the fee to be assessed against a student for the

use of a library or for the use of a student activity building, or for the use of the gymnasium, shall not exceed Four Dollars (\$4) for any one of said purposes for any one (1) semester or for any one (1) summer session. The fees, prices, rentals and charges thus fixed, along with all other income therefrom, shall be considered as revenue derived from the operation of the buildings thus constructed, and the facilities therein.

Said Board of Directors is further authorized to make any contract with reference to the collection and disposition of the revenues derived from any buildings and the facilities therein, so constructed or acquired. In reference to the acquisition of stadia or gymnasiums, said Board is authorized also to make contracts with reference to the collection and disposition of revenues to accrue to said institution from athletic events and games in which said institution may participate, away from said institution as well as at said institution.

In anticipation of the collection of such revenues and for the purpose of paying the cost of the construction or acquisition and equipment of said building or buildings and grounds, said Board is authorized and empowered by resolution to authorize, issue, sell and deliver its negotiable bonds from time to time and in such amount or amounts as it may consider necessary.

Such bonds shall be payable from the net revenues of the building or buildings and the facilities, including dining halls and kitchens therein, and the Board of Directors shall provide in the resolution authorizing the bonds and in the bonds themselves that the cost of maintaining and operating the building or buildings shall be a first charge against such revenue from said building or buildings, and the facilities therein.

Any bonds issued hereunder shall bear interest at not to exceed six per cent (6%) per annum, and shall finally mature in serial installments in not more than forty (40) years from date. Such bonds may be refunded by the said Board whenever such action is found by the Board to be necessary, such refunding bonds to bear the same or a lower rate of interest and to mature serially in not to exceed forty (40) years.

Subject to the above restrictions, said Board is given complete discretion in fixing the form, conditions and details of such bonds. Any bonds issued hereunder shall not be an indebtedness of the State of Texas but shall be payable solely from the net revenues to be derived from the operation of said building or buildings and the facilities, including dining halls and kitchens, therein.

#### **Sites and grounds**

Sec. 3. Land owned by the State of Texas, or by the Texas State University for Negroes, may be used as building sites and grounds for such buildings constructed or acquired under this Act; provided that said Board is hereby authorized to acquire by gift, or by purchase out of funds derived from the sale of said bonds, the said building sites and grounds.

#### **Dormitories; rules and agreements**

Sec. 4. Said Board is authorized to make rules, and to enter into agreements, relating to the maintenance of a maximum percentage of occupancy of such dormitories.

#### **Buildings to be self-liquidating**

Sec. 5. Buildings financed in accordance with this Act are hereby declared to be self-liquidating in character and the obligation for the payment of said bonds and interest supported by charges other than by taxation.

**Approval and registration of bonds**

Sec. 6. Before any such bonds shall be delivered to the purchaser or purchasers thereof, said Board shall forward the bonds and proceedings authorizing the same to the Attorney General, together with such other information and documents as he may require. The Attorney General shall examine the same and if he determines that the bonds have been validly authorized and constitute valid obligations, he shall approve said bonds and transmit them to the Comptroller for registration. Thereupon the Comptroller shall register the bonds.

Such bonds, after receiving the certificate of the Attorney General, and having been registered by the Comptroller, shall be held in every action, suit or proceeding in which their validity is or may be brought into question, valid and enforceable obligations. The only defense which can be offered against the validity of such bonds shall be forgery or fraud. This provision shall not be construed to give validity to any bonds which would be contrary to the provisions of the Constitution.

**Liberal construction**

Sec. 7. This Act shall be liberally construed to effectuate the purposes thereof.

**Partial invalidity**

Sec. 8. Should any part of this Act be held to be unconstitutional, it shall not affect any other part thereof. Acts 1949, 51st Leg., p. 265, ch. 144.

Emergency. Effective May 10, 1949.

**Art. 2643e. Funds of institution**

**Control of moneys collected**

Section 1. The Board of Directors of the Texas State University for Negroes may retain control of the following moneys collected by the Institution in carrying out the functions of the University, that is to say, the funds collected from student fees of all kinds, charges for use of rooms and dormitories, receipts from meals, cafes and cafeterias, fees on deposit refundable to students under certain conditions, receipts from school athletic activities, income from student publications or other student activities, receipts from sale of publication products and miscellaneous supplies and equipment, students' voluntary deposits of money with said school for safekeeping, the funds, revenues and accounts received from the University of Houston and the Houston College for Negroes, and all other fees and local institutional income of a strictly local nature arising out of, or incident to, the University's educational activities.

**Depositories**

Sec. 2. The Board of Directors is authorized to select depository banks as places of deposit of all funds of the kind and character named in Section 1, which are collected by said Institution, and said Board shall require adequate surety bonds or securities to be posted to secure said deposits, and may require additional security at any time said Board may deem any said deposit inadequately secured. All funds of the character named in Section 1 hereof, which are so collected, shall be deposited in said depository bank or banks within five (5) days from the date of collection. Depository banks so selected are hereby authorized to pledge their securities to protect such funds. Any surety bond furnished under the provisions of this Act shall be payable to the Governor of the State



and his successors in office, and venue of suit to recover any amount claimed by the State to be due on any of said bonds is hereby fixed in Travis County, Texas.

**Separate accounts**

Sec. 3. Separate accounts shall be kept on the books of the University, showing the sources of all sums collected and the purposes for which expended. All trust funds handled by the Board of Directors of such Institution shall be deposited in separate accounts and shall not be commingled with the General income from student fees or other local institutional income, and all such trust funds shall be secured by separate bonds or securities.

**Accounts and financial reports**

Sec. 4. True and full accounts shall be kept by the Board of Directors and by the employees of the University hereinabove mentioned, of all funds collected from all sources by the University, and all the sums paid out by it and the persons to whom and the purposes for which said sums are paid, and the Board of Directors shall biennially print a complete report of all sums collected, all expenditures, and of the sums remaining on hand; said report to be printed in even numbered years after the first day of September and before the first day of the following January, and shall show the true condition of all of said funds as of the first day of August preceding, and shall show all collections and expenditures for the preceding two (2) years. The Board of Directors of the University shall, upon the printing of said report, furnish copies thereof to the Governor, State Treasurer, State Comptroller of Public Accounts, State Auditor, Attorney General, not less than three (3) copies to the Board of Control, and shall, within a week after the selection of said Committee, furnish a copy of each of said reports for the preceding biennium to each Member of the House Appropriations Committee, the Senate Finance Committee, and the House and Senate Committees on Education of each Regular Biennial Session of the Legislature of Texas.

**Application of law**

Sec. 5. The provisions of this Act shall apply only to the funds hereinabove specifically enumerated and other local institutional income or donations or gifts to said University.

**Validation of acts**

Sec. 6. All acts of the Board of Directors of The Texas State University for Negroes heretofore performed in the respects hereinabove mentioned in handling and disbursing such funds are hereby in all things validated. Any such funds heretofore disbursed or that may be disbursed, hereafter, pursuant to any order or resolution of the said Board heretofore adopted are in all things validated.

**Similar to authority given other educational institutions**

Sec. 7. The authority of the Board of Directors for the Texas State University for Negroes here given is intended to be the same authority now vested by law in the governing authority of The University of Texas, the Agricultural and Mechanical College, and other similar educational Institutions, for the use of any and all local funds. Acts 1949, 51st Leg., p. 267, ch. 145.

Emergency. Effective May 10, 1949.

**Title of Act:**

An Act authorizing the Texas State University for Negroes to charge, use and appropriate to its own use certain fees, re-

ceipts, gifts, and institutional funds; prescribing regulations; validating prior use of such funds; and declaring an emergency. Acts 1949, 51st Leg., p. 267, ch. 145.

## CHAPTER NINE—STATE TEACHERS' COLLEGES

### 1. GENERAL PROVISIONS

Art.  
 2647d. West Texas State College; change of name [New].  
 2647e. Contracts with municipality for water and other utility services [New].  
 2647f. Stephen F. Austin State College; change of name [New].

Art.  
 2647g. Sul Ross State College; change of name [New].

### 3. NORTH TEXAS STATE COLLEGE

2651a. Change of name; control and management [New].

### 1. GENERAL PROVISIONS

#### Art. 2644. Control of colleges

Powers of Board of Regents of State Teachers Colleges, insofar as North Texas State Teachers College is concerned, trans-

ferred to North Texas State College and Board of Regents thereof, see art. 2651a.

#### Art. 2647. Board of regents

6. The Board shall meet each year at Austin, on the first Monday in May, or as soon thereafter as practicable, for the transaction of business pertaining to the affairs of the State normal schools, and at such other times and places as a majority of the members of the Board deem necessary for the welfare of said Colleges. Each and every member of said Board shall receive Ten Dollars (\$10) per day for the time spent attending the meetings provided for in this Law, and in addition thereto the amount of their traveling expenses, said compensation to be paid to the several members of the Board out of the appropriation for the support and maintenance of said State Teachers' Colleges as the Board may direct. As amended Acts 1949, 51st Leg., p. 1193, ch. 604, § 1.

Emergency. Effective July 25, 1949.  
 Powers of Board of Regents of State Teachers Colleges, insofar as North Texas

State Teachers College is concerned, transferred to North Texas State College and Board of Regents thereof, see art. 2651a.

#### Art. 2647a. Dormitories and lands for teachers colleges

Powers of Board of Regents of State Teachers Colleges, insofar as North Texas State Teachers College is concerned, trans-

ferred to North Texas State College and Board of Regents thereof, see art. 2651a.

#### Art. 2647b. Eminent domain, power of

Powers of Board of Regents of State Teachers Colleges, insofar as North Texas State Teachers College is concerned, trans-

ferred to North Texas State College and Board of Regents thereof, see art. 2651a.

#### Art. 2647c. Training teachers in schools of independent districts; contracts

That from and after the passage of this amendment, the Board of Regents of the State Teacher Colleges of Texas, or the governing Body of any other State supported teacher training institution, and the trustees of any independent school district shall be empowered to enter into contracts whereby the said teacher colleges may use the public schools of said independent school districts as laboratory schools for training of teachers; provided further that the available local funds of such colleges or the local funds of such school districts may be used in the pursuance and per-

formance of such contracts. As amended Acts 1950, 51st Leg., 1st C.S., p. 120, ch. 49, § 1.

Effective 90 days after March 1, 1950, date of adjournment.

Powers of Board of Regents of State Teachers Colleges, insofar as North Texas State Teachers College is concerned, trans-

ferred to North Texas State College and Board of Regents thereof, see art. 2651a.

#### Art. 2647d. West Texas State College; change of name

Hereafter the name of West Texas State Teachers College at Canyon, Texas, shall be West Texas State College at Canyon, Texas. All laws heretofore or hereafter enacted applicable to this school and contracts, bonds, or other debentures effected under its old name shall be likewise applicable to such school under its new name. Said School or College shall remain under the jurisdiction of the Board of Regents, Texas State Teachers Colleges. Acts 1949, 51st Leg., p. 422, ch. 223, § 1.

Emergency. Effective May 18, 1949.

##### Title of Act:

An Act changing the name of West Texas State Teachers College at Canyon, Texas, to West Texas State College at Canyon, Texas; making all laws and agreements

heretofore or hereafter enacted applicable under new name; providing said College shall remain under jurisdiction of Board of Regents of Texas State Teachers Colleges; and declaring an emergency. Acts 1949, 51st Leg., 422, ch. 223.

#### Art. 2647e. Contracts with municipality for water and other utility services

Section 1. The Board of Regents of the Texas State Teachers Colleges is hereby authorized and empowered to contract with the City of Denton, Texas for the furnishing of water and other utility services to the North Texas State Teachers College. The said Board of Regents shall likewise be authorized and empowered to contract with any other city or municipality in which there is located any of the other state teachers colleges for the furnishing of water, lights, sewerage or other utility services required by said institutions.

Sec. 2. The rates to be charged the North Texas State Teachers College at Denton, Texas, and any other college under this Act, shall not exceed those regularly established, published and declared rates for similar customers, or if there be no similar customers, the rates to be charged shall be those established by the said city of Denton or other city concerned respectively, for commercial users; provided the city of Denton, or other city concerned, may make such adjustments, discounts, and special rates as the governing authorities of said city of Denton, or other city concerned, may see fit to provide for said North Texas State Teachers College, or any other college under this Act.

Sec. 3. The provisions of any former Act of the Legislature, Special or General Law, contract or agreement relating to the furnishing of water at the North Texas State Teachers College, or at any other State Teachers College, are each and severally repealed by the passage of this Act to the extent of any conflict between said laws, contracts and agreements and the provisions of this Act, and it is specifically declared to be the intention of the Legislature, by the passage of this Act, to authorize and empower the said Colleges to contract and pay for water and other utility services used by them, notwithstanding any prior act of agreement by which water was to be furnished said institutions free of charge by the municipal authority wherein said college is located. Acts 1949, 51st, Leg., p. 473, ch. 256.

Emergency. Effective May 23, 1949.

Powers of Board of Regents of State Teachers Colleges, insofar as North Texas

State Teachers College is concerned, transferred to North Texas State College and Board of Regents thereof, see art. 2651a.

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

**Title of Act:**

An Act authorizing and empowering the Board of Regents of the Texas State Teachers Colleges to contract with certain municipalities for water and other utility serv-

ices at North Texas State Teachers College; repealing all laws, contracts and agreements in conflict herewith; and declaring an emergency. Acts 1949, 51st Leg., p. 473, ch. 256.

**Art. 2647f. Stephen F. Austin State College; change of name**

Section 1. The name of Stephen F. Austin State Teachers College is hereby changed to Stephen F. Austin State College, by which name said College shall be known and designated. The government, control and maintenance of said College under the general management of the Board of Regents of State Teachers Colleges shall continue in force as prescribed by law.

Sec. 2. All laws and regulations which now pertain to Stephen F. Austin State Teachers College and all appropriations and benefits to same shall be available to and apply to said Stephen F. Austin State College. Acts 1949, 51st Leg., p. 484, ch. 261.

Emergency. Effective May 25, 1949.

**Title of Act:**

An Act to change the name of Stephen F. Austin State Teachers College to Stephen

F. Austin State College; and declaring an emergency. Acts 1949, 51st Leg., p. 484, ch. 261.

**Art. 2647g. Sul Ross State College; change of name**

Section 1. The Sul Ross State Teachers College at Alpine, Brewster County, Texas, shall hereafter be designated, Sul Ross State College.

Sec. 2. Wherever the name Sul Ross State Teachers College or any reference thereto appears in the Statutes of Texas, or in any amendments thereto, or in any of the Acts of any Legislature, or in any court decision, such name and such reference shall hereafter mean and apply to the Sul Ross State College in order to conform to the new name of said College as provided in Section 1 hereof. Acts 1949, 51st Leg., p. 725, ch. 389.

Emergency. Effective June 13, 1949.

**Title of Act:**

An Act providing for the changing of the name of Sul Ross State Teachers College at Alpine, Brewster County, Texas, to Sul Ross State College; providing, that when-

ever such name or reference of name appears in State Statutes, or amendments thereto, or in any Acts of any Legislature, or in any court decision, shall mean and apply to the new name; and declaring an emergency. Acts 1949, 51st Leg., p. 725, ch. 389.

### 3. NORTH TEXAS STATE COLLEGE

**Art. 2651a. Change of name; control and management**

Section 1. The purpose of this Act is to change the name of the co-educational institution of higher learning established in the city of Denton, Denton County, now known as the North Texas State Teachers College, which established institution shall hereafter be known as North Texas State College, and to provide that said College as newly named shall be conducted, operated and maintained under the general direction and supervision of a new and separate Board of Regents as herein provided.

Sec. 2. The organization, control and management of said College shall be vested in a Board of Regents of North Texas State College to be composed of nine (9) members who shall be appointed by the Governor of Texas and confirmed by the Senate not more than one (1) member of said Board of Regents shall be appointed from or be a resident of any one (1) State Senatorial District, and no member of the said board may be appointed from or be a resident of the county in which the College is located. Three (3) members of the first Board appointed under this Act shall be designated by the Governor to serve for two

(2) years, three (3) for four (4) years, and three (3) for six (6) years, and the members appointed thereafter shall serve for six (6) years. The members of said Board shall be removable by the Governor for inefficiency or malfeasance of office. Any vacancy that may occur on the Board shall be filled for the unexpired term by appointment of the Governor. Each member of the Board shall be required to take the Constitutional oath of office before entering upon the duties of his office. The first meeting of the Board shall be held at a time and place designated by the Governor. At this meeting the Board shall organize by electing a chairman, and such other officers as it may deem necessary. Thereafter, the chairman shall convene the Board of Regents to consider any business connected with said College whenever he deems it expedient.

Sec. 3. On the enactment of this Bill into Law, the management and control of the North Texas State Teachers College as now vested in the Board of Regents of the Texas State Teachers Colleges shall be withdrawn of this Board, and shall be invested in the newly created Board of Regents of North Texas State College, as provided herein. All rights, obligations, properties and appurtenances now belonging to North Texas State Teachers College shall pass to the North Texas State College on the enactment of this Bill into Law, and become subject to the control and management of the governing Board of that College on said date. All powers, duties, rights, obligations and functions of the Board of Regents of the State Teachers Colleges as these relate to North Texas State Teachers College shall be vested in and/or performed by the Board of Regents of North Texas State College to be executed and administered by said Board under the provisions of this Act and the laws of Texas.

Sec. 4. All property and things of value owned in the name of North Texas State Teachers College shall by this Act pass to North Texas State College, and all Legislative Acts and appropriations including Section 17 of Article VII, Texas Constitution, passed either in or by reference to North Texas State Teachers College or North Texas State College, are hereby in all things ratified and/or confirmed in behalf of the North Texas State College.

Sec. 5. Wherever any reference to the North Texas State Teachers College or to the Board of Regents of the State Teachers Colleges (insofar as the North Texas State Teachers College is concerned) appears in the Revised Civil Statutes of Texas, 1925, or in any amendments thereto, or in any Acts heretofore enacted, such reference shall on the enactment of this Bill into Law, and thereafter, mean and apply to the North Texas State College and to the Board of Regents of the North Texas State College, it being the Legislative intent that all powers granted to the North Texas State Teachers College and to the Board of Regents of the State Teachers Colleges (insofar as the North Texas State Teachers College is concerned) shall be transferred to the North Texas State College and the Board of Regents thereof.

Sec. 6. The scope of work and activities of the North Texas State College shall be the same as is now being carried on by the existing North Texas State Teachers College, said work and activities to be increased or diminished, altered or changed in any manner deemed by the new governing Board to be conducive to the betterment of the services offered, or which may be offered, by such institution to the people of Texas.

Sec. 7. All laws and parts of laws insofar as they conflict with the provisions of this Act are hereby repealed; and in the event any provision, Section, clause or part whatsoever of this Act is declared unconstitutional or invalid by any Court of competent jurisdiction, the re-

mainder of this Act shall nevertheless remain in full force and effect. Acts 1949, 51st Leg., p. 475, ch. 258.

Emergency. Effective May 23, 1949.

## CHAPTER NINE A—TUITION AND CONTROL OF FUNDS OF STATE INSTITUTIONS

Art.

2654d—1. Investments and time deposits [New]. 2654f. Exemption of high school graduates of state orphanages [New].

### Art. 2654d—1. Investments and time deposits

Section 1. The Board of Regents of The University of Texas may, at its discretion, invest in United States Government securities, or place on time deposit with a bank located in the State of Texas, provided such time deposit shall be fully secured by United States Government securities, not more than eighty-five per cent (85%) of the "General Property Deposit" which is permitted by Chapter 221, Acts of the Regular Session of the Forty-third Legislature, (Article 2654a,<sup>1</sup> Section 2, Vernon's Annotated Civil Statutes).

Sec. 2. The income from any investment or time deposit shall be used for the purpose of making student scholarship awards to needy and deserving students of The University of Texas who are residents of the State of Texas as defined for tuition purposes, and the Board of Regents of The University shall administer the scholarship awards including the selection of recipients and the amounts and conditions of the awards. Any of said general property deposits which heretofore or hereafter remain without call for refund for a period of four (4) years from date of last attendance at The University of Texas shall be forfeited, and said deposits shall become operative to the permanent use and purpose of the scholarship fund. Direct expenses in the administration of the fund shall be paid from the income of the fund. Nothing in this Act should be construed to prohibit refund of any balance remaining in said "General Property Deposit" when made on proper demand and provided the above limitation of four (4) years has not run. The Board of Regents of The University of Texas may require, however, that no student may withdraw his deposit until he has been graduated or has apparently withdrawn permanently from The University of Texas. Acts 1949, 51st Leg., p. 1189, ch. 602.

<sup>1</sup> So in enrolled bill. Probably should read "Article 2654d."

Effective 90 days after July 6, 1949, date of adjournment.

### Art. 2654f. Exemption of high school graduates of state orphanages

The governing boards of the institutions of collegiate rank operating in whole or in part by public funds appropriated from the treasury are hereby authorized and directed to exempt all citizens of Texas who at the time of their entry into a State educational institution of collegiate rank are high school graduates of the State Orphanages from the payment of all dues, fees and charges whatsoever, including fees for correspondence courses; provided, however, that the foregoing exemption shall not be construed to apply to deposits, such as library, or laboratory deposits, which may be required in the nature of a security for the return of or proper care of property loaned for the use of students, nor to fees or charges for lodging, board or clothing. The governing boards of said institutions may and it shall be their duty to require every applicant claiming the benefits of the above exemption to submit satisfactory evi-

dence that the applicant is a citizen of Texas and is otherwise entitled to said exemption. Acts 1949, 51st Leg., p. 1054, ch. 544.

Effective 90 days after July 6, 1949, date of adjournment.

Section 2 of the Act of 1949, provided that if any Section, sentence, subdivision

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

## CHAPTER 9B.—ADMINISTRATION OF PUBLIC FREE SCHOOLS [NEW]

Art.

2654—1. Central Education Agency.  
2654—2. State Board of Education.  
2654—3. Powers and duties of Board.

2654—4. State Textbook Committee.  
2654—5. State Commissioner of Education.  
2654—6. State Department of Education.  
2654—7. General provisions.

### Article 2654—1. Central Education Agency

#### Establishment; composition; functions

Section 1. There is hereby established a Central Education Agency composed of the State Board of Education, the State Board for Vocational Education, the State Commissioner of Education, and the State Department of Education. It shall carry out such educational functions as may be assigned to it by the Legislature, but all educational functions not specifically delegated to the Central Education Agency shall be performed by County Boards of Education or District Boards of Trustees.

#### Control of education at State level and of activity with minors

Sec. 2. The Central Education Agency shall exercise, under the Acts of the Legislature, general control of the system of public education at the State level. Any activity with persons under twenty-one (21) years of age, which is carried on within the State by other State or Federal Agencies, except higher education in approved colleges, shall in its educational aspects be subject to the rules and regulations of the Central Education Agency.

#### Agreements with federal agencies

Sec. 3. The Central Education Agency shall be the sole agency of the State of Texas empowered to enter into agreements respecting educational undertakings, including the providing of school lunches and the construction of school buildings, with an agency of the Federal Government, except such agreements as may be entered into by the Governing Board of a State university or college. No County Board of Education or Board of Trustees of a school district shall enter into contracts with, or accept moneys from, an agency of the Federal Government except under rules and regulations prescribed by the Central Education Agency. Acts 1949, 51st Leg., p. 537, ch. 299, art. I.

Effective 90 days after July 6, 1949, date of adjournment. However see page 1059, ch. 546, § 2.

Section 6 of the Act of 1949 repealed all conflicting laws and parts of laws.

### Art. 2654—2. State Board of Education

#### Creation; composition

Section 1. There is hereby created the State Board of Education, to consist of twenty-one (21) members. One (1) member of the State Board of Education shall be elected from each of the twenty-one (21) Congressional Districts of the State of Texas.

**Special election**

Sec. 2. A special election shall be held in each of the twenty-one (21) Congressional Districts of the State of Texas on the second Tuesday in November, 1949, for the purpose of electing the initial members of the State Board of Education, such members so elected at such election to hold office until January 1, 1951, the names of the candidates in each district to appear on the same ballot with the Constitutional Amendments proposed by the Fifty-first Legislature to be voted on at such time.

**Candidates for special election; ballots, forms and supplies; expenses; returns; canvass; certificate**

Sec. 3. Any person desiring to become a candidate in the above-mentioned election to be held on the second Tuesday in November, 1949, shall not less than fifty (50) nor more than sixty (60) days prior to the date of said election file a sworn application with the Secretary of State, stating therein his name, address, age, number of years of continuous residence in the District in which he resides, and that he is not ineligible for any reason to serve as a member of said Board; and also within such time one hundred (100) or more of the resident qualified voters in such respective district may petition the Secretary of State to file the name of any qualified person of such district as a candidate in such election. Such petition shall state the candidate's name, address, age, number of years of continuous residence in the District in which he resides, and that he is not ineligible for any reason to serve as a member of said Board. Either of said actions shall constitute any qualified person as a candidate, subject to any other requirement as provided by law. Immediately after the deadline for filing applications and petitions as aforesaid, the Secretary of State shall conduct a drawing at his office in Austin, Texas, to determine by lot the order of names on the ballot in each of said Districts in which said election is to be held, the procedure to be followed in said drawing to be determined by the Secretary of State. Not later than thirty (30) days prior to the date of said election, the Secretary of State shall prescribe the form of ballot and any other blanks necessary to be used in said election, and shall furnish a copy of same to each County Judge of each county in this State. The Commissioners Court of each county in which said election is held shall furnish the ballots and any other necessary election forms and supplies necessary to conduct said election. The expenses necessary to conduct such election shall be paid for by the respective counties of this State in the same manner as is now provided by law with reference to any other general or special Statewide election, and the duties of all public officials with reference to providing for such election shall be the same as is now prescribed by law with reference to other elections except as herein provided. The general election officers shall hold the election herein provided. The returns of said election shall be made to the Secretary of State in the manner provided by Article 3030 and Article 3033, Revised Civil Statutes of Texas, 1925, as amended. Such returns shall be canvassed by the Secretary of State as provided by Article 3034, Revised Civil Statutes, 1925, as amended, and the Governor shall issue a certificate of election to the person in each District receiving the highest number of votes.

**Terms of office of initial members; oath; bond**

Sec. 4. The terms of office of the initial members of the State Board of Education elected in the aforesaid election to be held on the second Tuesday in November, 1949, shall begin upon certification by the Sec-



retary of State of the results of said election. Each member of said Board shall subscribe to the official oath of office, and give bond in the amount of Ten Thousand Dollars (\$10,000) payable to the Governor of the State of Texas, conditioned upon the faithful performance of his duties, said bond to be filed with the State Comptroller.

#### **General elections; terms of office**

Sec. 5. At the general election in 1950 there shall be elected, in conformity with the general election laws of this State, from each of the Congressional Districts, one (1) member of the State Board of Education. The members of said Board elected at said election in 1950 in Districts 1, 2, 3, 4, 5, 6, and 7 shall serve for a term of two (2) years beginning January 1, 1951; the members of said Board elected at said election in 1950 in Districts 8, 9, 10, 11, 12, 13, and 14 shall serve for a term of four (4) years beginning January 1, 1951; and the members of said Board elected at said election in 1950 in Districts 15, 16, 17, 18, 19, 20, and 21 shall serve for a term of six (6) years beginning January 1, 1951. At the general election in 1952 and at each general election thereafter, members shall be elected, in conformity with the general election laws of this State, to the Board offices which will become vacant on December 31 of that year. The members thus elected shall hold office for a term of six (6) years, beginning January 1 immediately following such election.

#### **Vacancies**

Sec. 6. In case of resignation or death of a member of said Board, or in case a position on said Board otherwise becomes vacant, the Board shall fill such vacancy as soon as possible by appointment of a qualified person from the affected district, any such person so appointed to hold office only until his successor is duly elected at the next general election and qualifies by taking the required oath and filing the required bond; and, at the next general election after any such vacancies occur, members on said Board from the affected districts shall be elected in conformity with the general election laws, to fill such vacated offices for such unexpired terms. Provided, however, that should any such vacancy occur at a time when it is impossible to place the names of candidates for the unexpired term of the office vacated on the general election ballot, said vacancy shall then be filled by appointment as aforesaid. Any person appointed to such vacancy shall hold such office only until qualification by his successor, duly elected at the next general election thereafter at which it is possible to place the names of candidates for said unexpired term on the general election ballot, or until the termination of the term of office to which he has been appointed, whichever occurs first.

#### **Nominations**

Sec. 7. Subsequent to said special election on the second Tuesday in November, 1949, candidates for said Board offices shall be nominated as provided by law. The request to have the name of any person affiliating with any party placed on the official ballot for a general primary as a candidate for the nomination of such part for said office shall be filed in the same manner provided for other district offices by Article 3112, Revised Civil Statutes of Texas, 1925, as amended. The filing fee for a candidate for nomination for said office shall be the same as that provided for a candidate for Representative in Congress by Article 3116, Revised Civil Statutes, 1925, as amended.

**Meetings; organization; election of State Commissioner of education;  
 quorum; no salary; expenses**

Sec. 8. A meeting of the Board members elected at the election on the second Tuesday in November, 1949, shall be called by the Secretary of State within ten (10) days after said returns have been canvassed, or as soon as practicable thereafter, at which time said Board shall organize, adopt rules of procedure, elect a Chairman, Vice-Chairman and Secretary, to serve for such terms and subject to such conditions as the Board may by its rules prescribe, and at such meeting, or as soon as practicable thereafter, said Board shall elect a State Commissioner of Education whose term shall begin immediately upon election by said Board and shall run until May 31, 1953, subject to confirmation by the Senate at the next Session thereof and removal by the State Board of Education as provided for in this Act.<sup>1</sup> Thereafter, said Board shall hold regular meetings in the City of Austin, Texas, on the first Monday in January, March, May, July, September, and November, and it may hold such other meetings as shall be scheduled by it in formal Sessions and as shall be called by the Chairman. In January of each year following general election and the qualification of new members, at its regular meeting, the State Board of Education shall organize, adopt rules of procedure, and elect a Chairman, Vice-Chairman and Secretary. No meeting of the State Board of Education shall be held unless attended by fourteen (14) members or more, which number shall constitute a quorum of said Board for the transaction of all business, except filling vacancies of said Board when said Board consists of less than fourteen (14) members. Members of said Board shall receive no salary, but shall be reimbursed for full expenses incurred in attending meetings of the Board.

<sup>1</sup> Article 2654—1 et seq.

**Eligibility; campaign expenditures**

Sec. 9. No person who holds an office under the State of Texas, or any political subdivision thereof, or who holds employment or receives any compensation for services from the State or any political subdivision thereof, except retirement benefits paid by the State of Texas or the Federal Government, or any person engaged in organized public educational activity, shall be eligible to serve on said Board or be elected thereto. No person shall be elected from or serve in a district who is not a bona fide resident thereof, with five (5) years continuous residence therein, prior to his election. No person shall be eligible to serve on said Board or be elected thereto unless he shall be a citizen of the United States, a qualified elector of his district, and shall have attained the age of thirty (30) years. The total amount authorized to be expended furthering or opposing the candidacy of any person as a member of the State Board of Education shall not exceed One Thousand, Five Hundred Dollars (\$1,500).

**Persons interested in textbook business or in selling bonds  
 not to campaign or contribute; penalty**

Sec. 10. It is hereby declared to be unlawful for any person, group of persons, organizations, corporations, or any other person of whatever nature who is engaged in the manufacturing, shipping, selling, storing, advertising, or in any other manner connected with the textbook business to make a financial contribution to, or to take part in, directly or indirectly, the campaign of any person seeking to become a member of the Board of Education established by this Act.<sup>1</sup> It is likewise declared to be unlawful for anyone whomsoever interested in the selling of bonds of any type whatsoever to make a contribution to or take part in, directly

or indirectly, the campaign of any person seeking to be elected to said Board. Anyone convicted of violating the provisions of this Section shall be fined not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000) and/or shall be sentenced to serve a jail term of not less than ninety (90) days nor more than one hundred and eighty (180) days. Act 1949, 51st Leg., p. 537, ch. 299, art. I, as amended Acts 1949, 51st Leg., p. 1056, ch. 546, § 1.

<sup>1</sup> Article 2654—1 et seq.

Emergency. Effective July 7, 1949.

Sections 2 and 3 of the amendatory act of 1949, read as follows:

"Sec. 2. Senate Bill No. 115, Acts of the Fifty-first Legislature [Articles 2654—1 et seq.], which contains an expression of emergency, is hereby declared to be an emergency, and the Legislature hereby directs that said Senate Bill No. 115, as hereby amended, shall take effect and be

in force from and after the passage of this Act and it is so enacted.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict. If any clause, sentence, paragraph, or Section of this Act is declared unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Act shall nevertheless remain in full force and effect."

### Art. 2654—3. Powers and Duties of Board

#### **Policy forming and planning; State Board for Vocational Education**

Section 1. The State Board of Education is hereby declared to be the policy forming and planning body for the Public School System of the State. It shall also be the State Board for Vocational Education, and as such, said Board shall have all the powers and duties conferred upon it by the various existing statutes now in effect relating to the State Board for Vocational Education.

#### **General powers and duties**

Sec. 2. It shall have the duties and powers prescribed in the statute for the State Board of Education and the State Board of Vocational Education. As one part of the Central Education Agency, it shall have the specific responsibility for adopting policies, enacting regulations and establishing general rules for carrying out the duties placed upon it or upon the Central Education Agency by the Legislature. The State Commissioner of Education shall be the executive officer through whom the State Board of Education and State Board of Vocational Education shall carry out its policies and enforce its rules and regulations. The State Board of Education shall have power to suspend the operation of its rules and regulations and those of the State Commissioner of Education in individual cases, and shall pass upon appeals made from the decisions of the Commissioner in applying such rules and regulations.

#### **Specific duties**

Sec. 3. The State Board of Education shall review periodically the educational needs of the State and adopt or promote plans for meeting these needs. It shall evaluate the outcomes being achieved in the educational program. It shall, with the advice and assistance of the State Commissioner of Education:

(1) Formulate and present to the Board of Control the proposed budget or budgets for operating the Minimum Foundation Program of Education, the Central Education Agency, and the other programs for which it shall have responsibility;

(2) Adopt operating budgets on the basis of appropriation by the Legislature;

(3) Establish procedures for budgetary control, expending, auditing, and reporting on expenditures within the budgets adopted;

(4) Make biennial reports covering all the activities and expenditures of the Central Education Agency to the Legislature;

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

- (5) Establish regulations for the accreditation of schools;
- (6) Execute contracts for the purchase of instructional aids, including textbooks, within the limits of authority granted by the Legislature; and
- (7) Execute contracts for the investment of the Permanent School Fund, within the limits of authority granted by the Legislature. Acts 1949, 51st Leg., p. 537, ch. 299, art. III.

Powers and duties of former State Board of Education, see, also, art. 2664 et seq.

#### Art. 2654—4. State Textbook Committee

##### Creation

Section 1. There is hereby created a State Textbook Committee to replace the present textbook committee created by Senate Bill No. 148, Chapter 144, Acts of the 49th Legislature, Regular Session, 1945,<sup>1</sup> with duties as herein provided.

<sup>1</sup> Article 2675b—5.

##### Nominations

Sec. 2. The State Commissioner of Education, as hereinafter created, annually at the meeting of the State Board held on the first Monday in May shall recommend to the State Board the names of fifteen (15) persons, no two of whom shall live in the same Congressional District, for appointment to the Textbook Committee for a term of one (1) year.

##### Approval or rejection of nominations

Sec. 3. The State Board shall approve or reject said nominations; and if any names shall be rejected the Commissioner shall nominate others until there shall be selected fifteen (15) persons, no two of whom shall live in the same Congressional District, who shall be named by the State Board of Education to membership on the Textbook Committee.

##### Eligibility in general

Sec. 4. Each of the persons so named shall be experienced and active educators 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.

##### Persons not eligible

Sec. 4a. No person who has acted as an agent for any author or textbook publishing house, or who has been an author or associate author of any textbook published by any publishing house, or who owns stock in any textbook depository or publishing house, or who has been directly or indirectly connected with any textbook publishing house, shall be eligible to appointment to the State Textbook Committee.

##### Duties of Committee, Commissioner and State Board of Education

Sec. 5. It shall be the duty of the Textbook Committee to recommend to the Commissioner a complete list of textbooks which it approves for adoption at the various grade levels and in the various school subjects. It shall examine carefully all books submitted for adoption and shall prepare and publish for free distribution a list of its recommendations to the State Commissioner. The State Commissioner may remove books from such recommended list, but he shall not place thereon any book not recommended by the Committee nor shall he reduce to a single adoption any list for a specific grade or subject in which multiple adoption is recommended by the Committee.

The State Commissioner of Education, pursuant to the provisions in the foregoing paragraph, shall submit to the State Board of Education the recommended list of contracts to be awarded each year. The State Board of Education may remove books from such recommended list, but the Board shall not place thereon any book not recommended by the State Commissioner, nor shall the Board reduce to a single adoption any list for a specific grade or subject in which multiple adoption is recommended by the State Commissioner. Said contracts shall be entered into by the Board of Education. Acts 1949, 51st Leg., p. 537, ch. 299, art. IV.

#### Art. 2654—5. State Commissioner of Education

##### **Establishment of position; transfer of powers and duties; election, term and salary; removal**

Section 1. There is hereby established the position of State Commissioner of Education. All powers and duties heretofore vested in the State Superintendent of Public Instruction shall be discharged by this Commissioner, provided said powers and duties are not in conflict with the provisions of this Act. The State Board of Education shall elect, by and with the consent of the Senate, the State Commissioner of Education to serve for a period of four (4) years, his term beginning on June 1st and ending May 31st; and may re-appoint him for successive terms of four (4) years, at a salary to be set up by the Board. The Board shall have the power to remove the Commissioner for conviction of any crime involving moral turpitude or felonious action, for wilfull and continuous disregard of directions of the Board on matters vital to the operation of the Department of Education and state school system.

##### **Eligibility**

Sec. 2. The State Commissioner of Education shall be a person of broad and professional educational experience, with special and recognized abilities of the highest order in organization, direction and coordination of education systems and programs, with particular abilities in administration and management of public schools and public education generally. The Commissioner of Education shall be a citizen of the United States and of the State of Texas for a period of not less than five (5) years immediately preceding his appointment; of good moral character; shall be eligible for the highest school administrator's certificate currently issued by the State Department of Education; and shall have a minimum of a Master's Degree from a recognized institution of higher learning. He shall subscribe to the oath of office required of other State officials.

##### **Executive officer and Executive Secretary of State Board of Education**

Sec. 3. The Commissioner of Education shall serve as the executive officer of the Board of Education, and shall be its Executive Secretary.

##### **Teaching certificates; vouchers; review of decisions**

Sec. 4. It shall be the duty of the State Commissioner of Education to issue teaching certificates to public school teachers and administrators and to voucher the expenses of the central educational agencies according to the rules and regulations prescribed by the State Board of Education. The decisions of the State Commissioner of Education shall be subject to review by the State Board of Education.

##### **Observance and execution of mandates, prohibitions and regulations**

Sec. 5. It shall be the duty of the Commissioner of Education to observe and execute the mandates, prohibitions, and regulations established by law, or by the State Board of Education in accordance with law.

**Bond**

Sec. 6. The Commissioner shall execute his official bond with a surety company as surety in the sum of Fifty Thousand (\$50,000.00) Dollars, payable to the Secretary of State, conditioned on the faithful performance of his duties as required by the laws of Texas and the rules and regulations imposed by the Board acting under the authority of law.

**Vacancy**

Sec. 7. When a vacancy occurs by reason of resignation, death, or removal, the Board shall elect a new Commissioner for the unexpired term; provided that the Board shall have the right to appoint an Acting Commissioner under such circumstances, who may serve at the discretion of the Board for a total consecutive term of not more than one (1) year.

**Executive officer of Central Education Agency; rules and regulations; recommendations and information; reports and records; delegation of functions**

Sec. 8. The Commissioner of Education shall serve as Executive officer of the Central Education Agency, and shall be responsible for promoting efficiency and improvement in the public school system of the State. He shall have the power to prescribe such rules and regulations as are necessary to carry out the duties and responsibilities placed upon him by the Legislature and the State Board of Education. He shall recommend to the State Board of Education such policies, rules, and regulations as he considers necessary to promote educational progress, and shall supply the State Board of Education with all necessary or pertinent information to guide it in its deliberations. He shall prescribe and require such uniform systems of reports and records as are necessary to secure needed information from county school officers and from local school districts. He may delegate ministerial and executive functions to members of the State Department of Education. Acts 1949, 51st Leg., p. 537, ch. 299 art. V.

Powers and duties of State Superintendent of Public Instruction see, also, art. 2655 et seq.

**Art. 2654—6. State Department of Education**

**Establishment; status; organization**

Section 1. There is hereby established the State Department of Education, which shall be the professional, technical, and clerical staff of the Central Education Agency. It shall be organized into such divisions and sub-divisions as shall be established by the State Board of Education upon recommendation of the State Commissioner of Education.

**Employees; budget**

Sec. 2. Directors of major divisions of the State Department of Education and all other employees of the State Department of Education shall be appointed by the State Commissioner of Education under general rules and regulations as adopted by the State Board of Education; and the Director of the Division of Vocational Education shall be the Executive Director for the State Board of Vocational Education. Such rules and regulations pertaining to personnel administration shall include a comprehensive classification plan, including for each class of position an appropriate title, a description of the duties and responsibilities, and the minimum requirements of training, experience, and other qualifications required for adequate performance of the job. The right

of the present employees of the State Department of Education in their employment and several positions shall be protected and safeguarded insofar as the purposes of this reorganization shall permit. Such rules and regulations shall likewise provide tenure safeguards, and leave and retirement provisions, as well as establish hearing procedures.

Upon recommendation of the State Commissioner, and within general law and appropriations of the Legislature, the State Board of Education shall adopt an annual budget for the operation of the Central Education Agency, and the Commissioner shall voucher all expenditures within this budget.

#### **Functions**

Sec. 3. The functions of the State Department of Education shall be to carry out the mandates, prohibitions, and regulations for which it is made responsible by statute, the State Board of Education, and the Commissioner of Education. It shall have no power over local school districts except those specifically granted in statute, but it shall seek to assist local school districts in developing effective and improved programs of education through research and experimentation, consultation, conferences, and evaluation. In discharging these functions the State Department of Education shall make free and full use of advisory committees and commissions composed of professional educators and/or other citizens of the State. Acts 1949, 51st Leg., 537, ch. 299, art. VI.

### **Art. 2654—7. General Provisions**

#### **Appeals to Commissioner of Education**

Section 1. Parties having any matter of dispute among them arising under provisions of the school laws of Texas, or any person or parties aggrieved by the actions or decisions of any Board of Trustees or Board of Education, may appeal in writing to the Commissioner of Education who, after due notice to the parties interested, shall examine in a hearing and render a judgment without cost to the parties involved. However, nothing contained in this Section shall deprive any party of a legal remedy.

#### **Advisory commissions**

Sec. 2. Upon recommendation of the Commissioner of Education, the State Board of Education may authorize and the State Commissioner may appoint, with ratification by the Board of Education, such official Commissions composed of citizens of the State as are necessary to advise the Commissioner of Education in the discharge of his duties. Provided, however, that no member of such Commission shall receive any pay for services on said Commission other than reimbursement of actual expenses incurred. Necessary expenses for the operation of such Commissions shall be included within the regular operating budget of the State Department of Education, and shall be subject to the same budget controls as all other items in said budget.

#### **Private or parochial schools**

Sec. 2a. No provision of this Act<sup>1</sup> shall be interpreted inimically to the status that was heretofore enjoyed by the private or parochial schools operating in the State of Texas that they, the graduates and staff, shall receive credit as in the past upon their capacities to meet the requirements of the high school.

<sup>1</sup> Article 2654—1 et seq.

#### **Abolition of existing State Board of Education and State Superintendent of Public Instruction**

Sec. 3. The State Board of Education, as heretofore established by law, is hereby terminated and abolished as of the date of the qualifica-

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

tion of the members of the State Board of Education herein provided. The State Superintendent of Public Instruction, as of the date of qualification of the Commissioner of Education, is hereby constituted and appointed advisor and consultant to the Commissioner of Education for the remainder of the term for which he has been elected at a salary not less than the salary being paid the State Superintendent of Public Instruction on the effective date of this Act.<sup>1</sup> The office of the State Superintendent of Public Instruction and/or the position as advisor and consultant to the Commissioner of Education herein provided for is hereby terminated and abolished as of December 31, 1950.

<sup>1</sup> Article 2654—1 et seq.

#### Partial invalidity

Sec. 4. If any article, 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 remaining portions of this Act.<sup>1</sup>

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

<sup>1</sup> Article 2654—1 et seq.

#### Closing or consolidating schools

Sec. 5. No provision in this Act<sup>1</sup> shall be interpreted to give to the State Board of Education, the State Department of Education, the State Commissioner of Education, or anyone whomsoever, the power to close, to consolidate, or cause by regulation or rule to be closed or consolidated, any Independent or Common School District in this State. It is the express purpose of this Act that the General Laws as they now exist in regard to consolidation or otherwise closing of school districts of this State shall continue in full force and effect. Acts 1949, 51st Leg., p. 537, ch. 299, art. VII.

<sup>1</sup> Article 2654—1 et seq.

### CHAPTER TEN—STATE DEPARTMENT OF EDUCATION

#### Arts. 2655 to 2663b—1

Office of State Superintendent of Public Instruction abolished and powers and duties transferred to State Commissioner of Education, see arts. 2654—5, 2654—7.

#### Arts. 2664—2675

New State Board of Education created, powers and duties, etc., see arts. 2654—2, 2654—3, 2654—7.

#### Art. 2675—1. Acceptance of funds from Congress for vocational rehabilitation

Acts 1949, 51st Leg., p. 334, ch. 163 authorizes the State Board for Vocational Education to transfer to common or independent public school districts, public junior college districts, and state educational institutions for vocational training purposes, title to instructional equipment received from the Government of the United

States and utilized for the operation of programs of vocational training for war production workers, food production war training program, and other emergency programs.

New State Board of Education created, powers and duties, etc., see arts. 2654—2, 2654—3, 2654—7.

#### Arts. 2675b—1 to 2675b—4

New State Board of Education created, powers and duties, etc., see arts. 2654—2, 2654—3, 2654—7.



**Art. 2675b—5. Powers and duties**

New State Board of Education created, powers and duties, etc., see arts. 2654—2, 2654—3, 2654—7.

State Textbook Committee to replace committee created by this article, see art. 2654—4.

**Arts. 2675b—6 to 2675b—10**

New State Board of Education created, powers and duties, etc., see arts. 2654—2, 2654—3, 2654—7.

**CHAPTER ELEVEN—COUNTY SCHOOLS****2. SUPERINTENDENT****Art.**

2683c. Counties of 28,000 population having no common school districts—Office abolished—County judge to perform duties [New].

**2. SUPERINTENDENT**

**Art. 2683c. Counties of 28,000 population having no common school districts—Office abolished—County judge to perform duties**

Section 1. From and after the effective date of this Act the duties now performed by county superintendents in all counties in this State having a population of not less than twenty-eight thousand (28,000) according to the last preceding Federal Census and in which there are no common school districts, shall be performed by the county judges of such counties, and the office of county superintendent as such shall cease to exist; provided, however, that the county superintendents in such counties who have been heretofore elected to the office of county superintendent shall serve until the expiration of the time for which they were elected, and that thereafter the duties now performed by county superintendents in such counties shall be performed by the county judges of such counties.

Sec. 2. In counties coming under the provisions of this Act, the county judge shall receive for his services in performing the duties of county superintendent of public instruction such salary not to exceed Nine Hundred Dollars (\$900) per annum as the county board of school trustees of the respective counties may provide. Such salary shall be paid in the manner now provided by law and from funds as now provided by law for the payment of county superintendents. And the county judge acting as county superintendent shall perform all the duties in such counties as are now by law to be performed by county superintendents, it being the purpose of this Act to abolish, at the expiration of the term of office for which county superintendents were elected in such counties, the office of county school superintendent, and to place such duties with the county judges of such counties. Acts 1949, 51st Leg., p. 106, ch. 62.

Effective 90 days after July 6, 1949, date of adjournment of Legislature.

Section 3 repeals all conflicting laws and parts of laws.

**Title of Act:**

An act abolishing the office of county superintendent in all counties in this State having a population of not less than twenty-eight thousand (28,000) according to the last preceding Federal Census and in which there are no common school districts; pro-

viding that the present county superintendents of such counties shall serve out their terms for which elected; providing that the duties of county superintendents upon the effective date of this Act shall be performed by the county judges of such counties; providing compensation for such county judges; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1949, 51st Leg., p. 106 ch. 62.

**Art. 2700. Salary of county superintendent; assistants**

Section 1. The elective and appointive County Superintendents of Public Instruction shall receive from the Available School Fund annual salaries based upon the following salary schedule:

a. The minimum base pay of a County Superintendent who has one (1) year but less than two (2) years of college training in a standard college or university shall be One Hundred and Fifty-five Dollars (\$155) per month. Six Dollars (\$6) per month shall be added for each year of teaching experience in the public schools of this State not to exceed Seventy-two Dollars (\$72) per month.

b. The minimum base pay for a County Superintendent who has two (2) but less than three (3) years of college training in a standard college or university shall be One Hundred and Eighty Dollars (\$180) per month. Six Dollars (\$6) per month shall be added for each year of teaching experience in the public schools of this State not to exceed Seventy-two (\$72) per month.

c. The minimum base pay for a County Superintendent who has three (3) or more years of college training in a standard college or university but who does not hold a Bachelors Degree shall be Two Hundred and Five Dollars (\$205) per month. Six Dollars (\$6) per month shall be added for each year of teaching experience in the public schools of this State not to exceed Seventy-two Dollars (\$72) per month.

d. The minimum monthly base pay for a County Superintendent who holds a Bachelors Degree from a standard college or university and no higher Degree shall be Two Hundred and Sixty-seven Dollars (\$267) per month. Six Dollars (\$6) per month shall be added for each year of teaching experience in the public schools of this State, not to exceed Seventy-two Dollars (\$72) per month.

e. The minimum monthly base pay for a County Superintendent who holds a Masters Degree from a standard college or university shall be Two Hundred and Ninety-two Dollars (\$292) per month. Six Dollars (\$6) per month shall be added for each year of teaching experience in the public schools of this State not to exceed One Hundred and Fifty-six Dollars (\$156) per month.

Provided further:

a. That the County Superintendent shall receive in addition to the salary based upon professional training and teaching experience in public schools of Texas as described in the preceding paragraphs of this Act, monthly increments based upon the following scholastic population brackets as indicated in the following table:

Population	Amount
3,000 or less	\$ 40.00
3,001 to 4,000	50.00
4,001 to 5,000	60.00
5,001 to 6,000	70.00
6,001 to 7,000	80.00
7,001 to 8,000	90.00
8,001 to 9,000	100.00
9,001 to 12,000	110.00
12,001 to 15,000	120.00
15,001 to 20,000	130.00
20,001 to 30,000	140.00
30,001 to 50,000	150.00
50,001 and over	160.00

b. The annual salary for County Superintendents shall be the monthly base salary, plus increments, multiplied by twelve (12).

Provided however that County School Superintendents who have served twenty-four (24) or more years as an elected County School Superintendent in Texas may receive the same base pay and increments for experience as a County School Superintendent with a Masters Degree would receive in the same position.

Sec. 2. 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 expense of the County Superintendent and the same shall be determined by the resident scholastic population of the county, and the salary schedule as provided for in Section 1 of this Act. 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 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 office of the Chief State School Officer showing that he has made all reports required of him. The County Superintendent, with the approval and confirmation of the County Board of Education, may employ a competent assistant to the County Superintendent at an annual salary not to exceed Forty-five Hundred Dollars (\$4500) and may employ such other assistants as necessary, provided the aggregate amount of the salaries of all assistants to the County Superintendent shall not exceed Seven Thousand, Two Hundred Dollars (\$7,200) per annum; provided that the 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 a salary not to exceed Four Thousand, Eight Hundred Dollars (\$4,800) and may employ such other assistants as necessary provided that the aggregate amount of the salaries of all assistants shall not exceed Seven Thousand, Five Hundred Dollars (\$7,500) 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 expense of the County Superintendents are paid; and the County Board of Education may make further provisions as it deems necessary for office and traveling expenses of the County Superintendent; provided that expenditures for office and traveling expenses of the County Superintendent shall not be more than One Thousand, Eighty Dollars (\$1,080) per annum, and shall not be paid except upon notarized claims made upon forms filed by the County School Superintendent, and approved by the County School Board.

The office and traveling expenses of Supervisors may be paid from County Administration Funds, provided such expenses shall not exceed Fifty Dollars (\$50) per Supervisor per month for Supervisors under the supervision of the County School Superintendent under co-operative agreements within a given county for not to exceed nine (9) months.

Sec. 3. It shall be the duty of the Chief State School Officer to remit to the depository bank of each of the respective counties the amount of the State Available Fund provided in the budget of each county, remittance to be made in October of each scholastic year.

Sec. 4. The Chief State School Officer is hereby authorized to issue and transmit to county officials all instruction necessary for the

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

proper observance and administration of this Act. As amended Acts 1949, 51st Leg., p. 765, ch. 412, § 1.

Emergency. Effective Sept. 1, 1949.

Sections 2 and 3 of the amendatory act of 1949, provided;

"Sec. 2. If any article, section, subsection, clause, or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.

"Sec. 3. 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 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."

## CHAPTER THIRTEEN--SCHOOL DISTRICTS

### 1. COMMON SCHOOL DISTRICTS

#### Art.

2742o. Validation of establishment and acts [New].

2744a—1. Administrative jurisdiction of county line district; choice of county [New].

2744e—5. County-wide school equalization fund tax—Counties of 20,100 to 21,000 population [New].

2744e—6. County-wide district in counties with assessed valuation of \$42,000,000 and population of four or less per square mile [New].

2745b. Time of school elections [New].

### 3. INDEPENDENT DISTRICTS IN CITIES

2783e. Separation from municipal control; validation of acts [New].

### 4. TAXES AND BONDS

2784f. Tax rate in counties with population of 500,000 [New].

2788a. Independent districts containing city of 100,000 [New].

2790a—6. Levies and assessments by independent districts, cities and towns validated [New].

2790d—8. Time warrants of independent districts; counties of 13,975 to 19,025 [New].

2790f. Tax rate in independent district wherein school building was destroyed [New].

2790m. Borrowing funds and issuing time warrants; districts in counties of 30,400 to 31,150 [New].

2802i—28. Tax rate in common school districts in counties of 55,000 to 61,000 [New].

### 5. ADDITIONS AND CONSOLIDATIONS

2803c. Independent district redefined to include territory in more than one county; validation of acts and elections [New].

2805a. Election to assume indebtedness and levy tax [New].

2806d. Validation of consolidations of common school districts with independent districts; defective election call [New].

#### Art.

2806e. Trustees of larger district as trustees of consolidated district until terms expire [New].

2815—2. Consolidation of rural high school districts and other districts [New].

### 6. DISTRICTS IN LARGE COUNTIES

2815g—39. Validation of districts, act, bonds and elections; consolidations; taxes [New].

2815g—40. Validation of consolidation of independent districts with other districts [New].

2815g—41. Validation of independent districts whose boundaries redefined; bond and tax elections [New].

2815g—42. Validation of consolidation; one district included in annexation election [New].

2815g—43. Validation of districts and acts and orders relating thereto [New].

### 7. JUNIOR COLLEGES

2815h—5. Refunding bonds of junior college districts [New].

2815h—6. Validation of enlarged boundaries [New].

2815j—2. Appropriations to supplement local funds; regulation and allocation; eligibility [New].

2815m—1. Trustees of joint county junior college districts [New].

2815n. Trustees of junior college districts to which other districts annexed [New].

2815o. Boards of Regents of junior colleges [New].

2815p. Disannexation of territory [New].

2815q. Dissolution and transfer of property upon creation of senior college [New].

2815r. Dormitories, cottages and stadiums; museums, libraries, and other buildings [New].

2815s. Extension of boundaries of junior college district coextensive with independent district [New].

## 1. COMMON SCHOOL DISTRICTS

### Art. 27420. Validation of establishment and acts

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, consolidated independent school districts, rural high school districts, all county line school districts, including county line common school districts, county line independent school districts, county line rural high school districts, county line consolidated common school districts, county line consolidated independent school districts, and all other school districts, groups or annexations of whole districts, or parts of districts, whether established, organized, and/or created by vote of the people residing in such districts, or by action of the governing body of any such municipalities, or by action of the county school boards, or by action of the County Judge, or by action of the Commissioners Courts, and whether created by general or special law in this State, and heretofore recognized by either state or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance.

All acts of the county boards of trustees of any and all counties in re-arranging, grouping, annexing, changing, detaching and attaching of territory, or subdividing such school districts, or increasing or decreasing the area thereof, or abolishing school districts, in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, and all acts of the governing bodies of any such municipalities in annexing territories to such municipally controlled school districts, are hereby in all things validated.

All consolidations, or attempts at consolidation, of school districts after an election was held and a majority of the legally qualified voters in each such districts voting in such election voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as though they had been so consolidated or established in the first instance, and shall include, among others, such attempted consolidations where the election proceedings call for the consolidation of one or more common school districts and/or one or more independent school districts with an independent school district, but did not provide for the consolidation of each such common school district and/or independent school district with each other such district.

All acts of the County Judges, and/or the Commissioners Courts, and/or the county boards of school trustees in converting or changing one type of school district into another type of school district are hereby in all things validated; and all elections called by such officers for such conversion or change, in which election a majority of the qualified voters voting therein voted in favor thereof, are hereby in all things validated; and all such converted or changed school districts are hereby in all things validated as though they had been legally established in the first instance.

All acts of the governing bodies of municipalities and/or of the boards of trustees of municipally controlled or assumed school districts and/or cities and towns constituting separate and independent school districts and/or extended municipal school districts, in ordering elections for the separation or divorcement of such schools and/or districts from municipal control, jurisdiction or authority, in which elections a ma-

majority of the qualified voters voting therein voted in favor of such separation or divorcement, are hereby in all things validated; and the school districts formed by such separation or divorcement are hereby in all things validated; and the organization and acts of the boards of trustees of any and all such districts are in all things validated.

The boundary lines of any and all such school districts are hereby in all things validated.

All acts of the boards of trustees in such school districts or the governing bodies of such municipalities or the County Judges or the Commissioners Courts ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such school districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not issued, and all tax elections, bond elections, and bond assumption elections following such consolidation, annexation, grouping, attachment or detachment, conversion, change, etc., are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county or school district or municipality in the creation of any district was omitted, shall in nowise invalidate such district; and the fact that by inadvertence or oversight any act was omitted by the board of trustees of any such district or the County Judge or the Commissioners Court or the governing body of any such municipality in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such districts, or in the issuance of the bonds of any such district, shall in nowise invalidate any of such proceedings or any bonds so voted or issued by such district.

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax, or not to exceed the rate of tax as heretofore authorized or attempted to be authorized by any act of the district or by any election of the taxpaying voters of said districts or by any Act whether general or special by the Legislature, or as is now being levied, assessed, and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said districts, or by any Act, whether general or special, of the Legislature.

Sec. 3. This law shall not apply to any district which is now involved in litigation in any district court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization or creation of such district or the consolidation or annexation of territory in or to such district is attacked. Provided further, that this Act shall not apply to any district which has heretofore been declared invalid by a court of competent jurisdiction of this State or which may have been established and which was later returned to its original status.

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 1949, 51st Leg., p. 885, ch. 477.

Emergency. Effective June 28, 1949.

#### Art. 2744a—1. Administrative jurisdiction of county line district; choice of county

Section 1. Any county line school district having a scholastic population of not less than one hundred and forty (140) and not more than one hundred and eighty-six (186) scholastics according to the last preceding scholastic census enumeration may by a vote of the majority of

the legally qualified voters of the school district change the jurisdiction, for administrative purposes, of the school district to the county of their choice, the county of their choice to be one of the counties in which a part of the school district lies.

Sec. 2. Upon the petition of twenty (20) legally qualified voters or a majority of the legally qualified voters in said school district, whichever is the lesser, it will be the duty of the County Judge of the county having jurisdiction over said district upon receipt of said petition to call an election in said school district to determine the county that will have jurisdiction for administrative purposes over said school district. Acts 1949, 51st Leg., p. 370, ch. 193.

Emergency. Effective May 14, 1949.  
Title of Act:

An Act permitting certain county in line school districts to hold an election to change the administrative jurisdiction of the school district to the county of the choice of the

majority of the voters of the school district; the election to be called upon petition of the voters of the district; and declaring an emergency. Acts 1949, 51st Leg., p. 370, ch. 193.

#### Art. 2744e—5. County-wide school equalization fund tax—Counties of 20,100 to 21,000 population

Section 1. Upon a petition duly signed and verified by the tax rolls of the county, of twenty-five (25) qualified voters, of any county in this state having a population of not less than twenty thousand one hundred (20,100) nor more than twenty-one thousand (21,000) according to the last preceding Federal Census, and having a total assessed valuation of not less than Thirty Million (\$30,000,000.00) Dollars, and in which said county there are not less than four thousand (4,000) scholastics enumerated on the scholastic census rolls, the County Judge shall immediately order an election to be held within thirty (30) days thereafter to determine whether there shall annually thereafter be levied within said county a tax not to exceed Twenty-five (25¢) Cents on the One Hundred (\$100.00) Dollars valuation of the taxable property within the county to be used for the support of the public schools in said county, and the proceeds of said tax shall be known as the County-wide School Equalization Fund of the county and may be spent, after allocation as herein provided, by the various schools receiving same for the upkeep, maintenance and repair of buildings and grounds, for administrative and overhead costs, and for salaries. The finding of the County Judge that such petition is sufficient and signed by the number of taxpaying voters required by law shall be conclusive. The County Judge shall enter an order in the minutes of the Commissioners Court calling the election. The ballots to be used in an election under the provisions of this Act shall have written or printed thereon: "For the County-wide School Equalization Fund Tax" and "Against the County-wide School Equalization Fund Tax."

Sec. 2. Notice of the election shall be given by publishing a copy of the election order in a newspaper of general circulation in said county once a week for at least two (2) weeks, the date of the first publication to be not less than fifteen (15) days prior to the date for holding said election. Further notice shall be given by the posting in a public place of a copy of said election order within the boundaries of each Independent and Common School District in the county, and one copy of said notice shall be posted at the court house door in said county, all of which notices shall be posted for at least fifteen (15) days prior to the date of said election. Except as otherwise provided herein, the manner of holding said election shall be controlled by the general election laws of the State of Texas, and only qualified electors of said county who own taxable

property in such county and who have duly rendered same for taxation shall be qualified to vote at said election, and all electors shall vote in the election precincts of their residence. Said election shall be held at the usual voting places in the several election precincts of the county. The returns of said election shall be made and delivered to the County Judge within five (5) days from the date of the election, and shall be canvassed by the Commissioners Court of the county at its next regular meeting or special meeting following said election. A majority of those voting at said election shall be sufficient to carry said election, and an order shall be entered by the Commissioners Court declaring the result of the election, and which order shall be recorded in the minutes of the Commissioners Court.

Sec. 3. If said tax is voted at said election, there shall be created from the moneys derived from said taxes the fund to be known as "County-wide School Equalization Fund", and it shall be the duty of the Commissioners Court, at the time other taxes are levied in said county, to annually levy a tax under this law not to exceed Twenty-five (25¢) Cents on the One Hundred (\$100.00) Dollars valuation of the property situated in said county. All such taxes levied hereunder shall be assessed by the Tax Assessor and collected by him as other taxes are assessed and collected. The money collected from said tax shall be apportioned to the various school districts in the county on the basis of the number of scholastics in the county enumerated for said districts by the then current scholastic census for all the districts, each school district receiving the same amount for each scholastic; and the Tax Collector shall each month apportion and pay to each district its pro-rata part of the taxes collected. The valuations fixed by the County Board of Equalization for state and county taxation purposes shall be used in computing said taxes and in levying and collecting the same; providing, however, that no district shall receive an allocation of money from the County-wide School Equalization Fund during any year unless said district shall levy and collect for that year a minimum of Fifty (50¢) Cents on each One Hundred (\$100.00) Dollars valuation of property for the support and maintenance of said district schools; and providing further that school districts situated and lying in more than one county shall receive an allocation from the County-wide School Equalization Fund based on the scholastics residing in the county in which the said fund is established, and the scholastics in said county-line districts residing outside the county in which the fund is established shall not be included in making said allocation.

Sec. 4. In case any clause, sentence, paragraph, section or part of this Act shall be held unconstitutional or void, then, and in that event, it shall not affect any other clause, sentence, paragraph, section or part of this Act. All laws, or parts of laws, both general and special, in conflict with this Act are hereby repealed to the extent of such conflict. Acts 1949, 51st Leg., p. 139, ch. 84.

Emergency. Effective April 6, 1949.

**Title of Act:**

An Act authorizing an election for the purpose of creating a County-wide School Equalization Fund in certain counties; providing for the election therefor; providing for the manner of collecting taxes for

the purpose of said equalization fund and for the distribution thereof; providing a savings clause and repealing all laws or parts of laws in conflict herewith, and declaring an emergency. Acts 1949, 51st Leg., p. 139, ch. 84.



**Art. 2744e—6. County-wide district in counties with assessed valuation of \$42,000,000 and population of four or less per square mile****County-wide district created; taxing power; election**

Section 1. This Act is applicable to all counties having an assessed valuation of taxable property according to the last approved tax rolls of not less than Forty-two Million (\$42,000,000.00) Dollars and a population according to the last Federal Census of not more than four (4) persons per square mile. Any county coming within the terms of this Act shall have a County Unit System of education to the extent specified in this Act. For the purpose of levying, assessing, and collecting a school maintenance tax and for such further administrative functions as are set forth herein, the territory of each of such counties is hereby created into a School District, hereinafter described as the County-wide District, the taxing power to be exercised as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act prescribed, the taxing power conferred on School Districts by Article 7, Section 3 of the Constitution; but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein, at an election to be held for that purpose as hereinafter provided. Whenever a petition is presented to the County Judge of any such county, signed by at least one hundred (100) qualified property taxpaying voters residing therein, asking that an election be ordered for the purpose of determining whether or not a maintenance tax shall be levied, assessed and collected on all taxable property within said county for the maintenance of public schools therein, not exceeding Forty (40¢) Cents on the One Hundred (\$100.00) Dollars of assessed valuation of taxable property, it shall be the duty of the County Judge immediately to order an election to be held within said county to determine said question. The finding of the County Judge that such petition is sufficient, and signed by the number of taxpaying voters required by law, shall be conclusive. Notice of said election shall be given by publishing a copy of the election order in a newspaper of general circulation in said county once a week for at least two (2) weeks, the date of the first publication to be not less than twenty (20) days prior to the date fixed for holding said election. Further notice shall be given by the posting of a copy of said election within the boundaries of each Independent and each Common School District, and one copy of said notice shall be posted at the courthouse door. Said notice shall be posted at least twenty (20) days prior to the date fixed for said election. Except as otherwise provided herein, the manner of holding said election shall be controlled by the general election laws of the State, and only qualified electors who own taxable property in such county and who have duly rendered the same for taxation shall be qualified to vote at said election, and all electors shall vote in the election precincts of their residence. Said election shall be held at the usual voting places in the several election precincts of such county. Such election returns shall be made and delivered to the County Judge and shall be canvassed by the Commissioners Court of such county at its next regular or special meeting following said election. A majority vote of those voting at said election shall be sufficient to carry said election. The result of said election shall be recorded in the minutes of the Commissioners Court and certified by the County Clerk and Ex-Officio Clerk of the Commissioners Court to the County Superintendent or Ex-Officio Superintendent of said county.

**Record of certificate; certified copy sent to Department of Education**

Sec. 2. In event the said maintenance tax is authorized at such election, after the result of the election has been certified to the County Superintendent, he shall make a permanent record of such certificate and shall send a certified copy of same to the State Department of Education at Austin, Texas, for its information and guidance.

**Determination of estimated receipts, etc.**

Sec. 3. As soon as the Commissioners Court of such county has determined the total of the assessed value of taxable property according to the values fixed by the Board of Equalization, which values shall be the same as those fixed for State and County taxation purposes, subject thereafter to ordinary corrections, it shall then perform the following duties: (a) determine the estimated total receipts from the levying and collecting of said Forty (40¢) Cents tax on the property in the County-wide District according to such valuation; (b) determine the estimated amount of money apportionable to each scholastic on the basis of equal per capita distribution according to the then current census of scholastics for the several Districts; (c) determine the estimated amount of such money available for each Common and Independent School District according to such per capita distribution, with the special provision that no District shall receive less than Seven Hundred Fifty (\$750.00) Dollars of such money and that the provision for equal per capita distribution shall yield to this special provision; (d) cause the Ex-Officio Clerk of such court to transmit a copy of the order fixing the estimated amount for each Independent School District to the President thereof, and for each Common School District to the County Superintendent or Ex-Officio County Superintendent of such county.

**Levy and collection of tax; distribution and use; budgets**

Sec. 4. It shall be the duty of the Commissioners Court, at the time other taxes are levied in the county, to levy a tax under this law of not to exceed Forty (40¢) Cents on the One Hundred (\$100.00) Dollars valuation in said county for that year. Such taxes shall be assessed by the Tax Assessor, and collected by the Tax Collector, as other taxes are assessed and collected. The money collected from said tax shall be distributed to the various School Districts in such county as follows:

All Districts in the county shall receive the same amount of money for each scholastic, with the exception that no District shall receive less than Seven Hundred Fifty (\$750.00) Dollars, which shall be used for the maintenance of schools in such District. If any portion of said Seven Hundred Fifty (\$750.00) Dollars is not used for any year, the balance shall be retained in the treasury and used for the said District for the next year, such balance to be deducted the following year from the Seven Hundred Fifty (\$750.00) Dollars to be apportioned to such District. No part of the moneys realized from said county-wide maintenance tax shall be used to pay any present or future bond issues or interest thereon. The Tax Collector shall each month apportion to each District the pro-rata part of the taxes collected, and dispose of same as herein-after provided. The valuations fixed by the County Board of Equalization for State and county taxation purposes shall be used in computing said taxes and in levying and collecting the same. The budget officer of each School District in said county as provided by statute, and the Trustees of each of said Districts, after receiving the notice of the State apportionment of public school funds to said District, shall proceed to

make and approve the budget for their respective Districts as provided by Acts 1931, 42nd Legislature, Regular Session, page 339, Chapter 206.<sup>1</sup>

<sup>1</sup> Articles 688, 689, 689a—1 et seq. and Vernon's Ann.P.C. art. 414b.

#### **Settlements and credits**

Sec. 5. As and when said taxes are collected by the Tax Collector of the county, he shall make monthly settlements with the Independent School Districts situated in such county, said moneys to be received and held by said Independent School Districts and protected in accordance with the existing depository laws. And the Tax Collector shall place to the credit of the Common School Districts in such county such moneys as are apportioned to them, which shall be protected as provided by the existing depository laws.

#### **Taxes of independent and common school districts**

Sec. 6. The several Independent School Districts and Common School Districts in such county shall continue to have authority to levy, assess and collect the maintenance taxes theretofore authorized by the property tax payers in said respective Districts, subject to the restrictions that after said county-wide maintenance tax election has been carried, and while said tax is in full force and operation, said respective Independent School Districts and Common School Districts shall not thereafter levy, assess and collect any special tax for maintenance of schools, except in instances wherein the apportionment made by the Commissioners Court, together with the apportionment made by the State of Texas, produces an amount inadequate to meet the approved budget of such District; and in that event, such tax shall be levied in an amount to meet such deficit, due allowance to be made for delinquencies and for costs of collection. This law shall not affect the right and duty of said respective School Districts to levy, assess and collect taxes within their respective School Districts for the payment of principal and interest on bonded indebtedness of such Districts. The respective Districts shall continue to levy, assess and collect taxes sufficient to pay principal of and interest on their bonds. Provided, however, that nothing in this Act shall prevent the proper authorities from collecting and enforcing, for the benefit of the respective Districts, any maintenance taxes levied before this law becomes effective.

#### **Duties and powers of commissioners court**

Sec. 7. Until and unless said county-wide maintenance tax has been authorized at an election held in such county, the duties and powers of the Commissioners Court shall not be considered as having been changed, altered or enlarged by this Act.

#### **Duties and powers of school district trustees**

Sec. 8. This Act shall not have the effect of changing any duties imposed on or powers conferred on the Trustees of School Districts situated in the counties covered by this Act, unless and except as expressly provided herein, it being the intention of this law that said respective Boards of Trustees shall continue to administer their lawful duties and powers except as to the levying, assessing and collecting of maintenance taxes, and the powers and duties as to levying, assessing and collecting maintenance taxes shall remain unaffected except as modified as provided herein.

**Cumulative nature of law**

Sec. 9. This Act shall be considered as cumulative of other laws applicable to the counties affected and shall not be construed as repealing or modifying the provisions of Senate Bill No. 211, Acts 1947, 50th Legislature, Chapter 85, page 145 to 147,<sup>1</sup> but shall be cumulative thereof; and counties affected by this bill may adopt the provisions of this Act, or the above mentioned Act, by an election of the people as in said Acts provided; but in the event any provision of this law is inconsistent with any other applicable law, the provisions of this Act shall prevail as to the counties affected.

Article 2744e—3, §§ 1, 3, 4, 11.

**Advisory supervision by commissioners court**

Sec. 10. The Commissioners Court shall have advisory supervision over the schools in the county to the extent that it shall be the duty of the court to render its advice on all administrative matters submitted by the several Boards of Trustees.

**Taxes already voted under earlier law**

Sec. 11. In instances wherein an election has heretofore been held in any county subject to the provisions of this Act, under the provisions of Chapter 150, Acts of the Regular Session of the 47th Legislature,<sup>1</sup> or under the provisions of Chapter 85, Acts of the Regular Session of the 50th Legislature,<sup>2</sup> resulting favorably to the levying of a tax as provided in either of such Acts, the tax so voted shall remain effective and the Commissioners Court of such county shall have the power to levy such taxes for each year until an election shall have been held in such county in accordance with the provisions of this Act and shall have resulted favorably in levying a tax at a rate greater than that provided for in said two above named Acts. But after such election has been held and the procedure herein provided for complied with, the Commissioners Court of such county shall have the power, and it shall be its duty, to levy such taxes at said increased rate for the calendar year in which the election shall have been held and for each year thereafter without limitation as to extent of time. Taxes thus levied by the Commissioners Court shall be assessed and collected in accordance with applicable laws.

<sup>1</sup> Article 2744e—3.

<sup>2</sup> Article 2744e—3, §§ 1, 3, 4, 11.

**Validation of acts**

Sec. 12. All actions heretofore taken by the Commissioners Court, the county officials and the officials of School Districts located in any such county, and by actions taken on behalf of any such county affected by this Act, and all elections heretofore held in any such county and for any purposes which are authorized by this Act, and all county-wide school taxes heretofore levied in any such county, are hereby expressly validated and ratified.

**Partial invalidity**

Sec. 13. If any paragraph, clause or provision of this Act shall be held invalid or unconstitutional, the validity of other provisions hereof shall remain in full force and effect. Acts 1949, 51st Leg., p. 236, ch. 134.

Emergency. Effective May 10, 1949.

**Art. 2745b. Time of school elections**

In counties having a population of five hundred thousand (500,000) or more, according to the last preceding Federal Census, all school elections now held on the first Saturday in April for the purpose of electing trustees, whether County Trustees or District Trustees, and whether in districts created by Special Acts or otherwise, shall hereafter be held on the first Saturday in May. Provided however, that this Act shall not become effective until January 1, 1950. Acts 1949, 51st Leg., p. 734, ch. 395, § 1.

**Title of Act:**

An Act to fix the date of all school elections in counties having a population of five hundred thousand (500,000) or more, ac-

ording to the last preceding Federal Census; providing an effective date; and declaring an emergency. Acts 1949, 51st Leg., p. 734, ch. 395.

**Art. 2746. 2819—20 Conduct of election**

Said trustees shall appoint three (3) persons, qualified voters of the district, who shall hold such election and make returns thereof to said trustees within five (5) days after such election, and said persons shall receive as compensation for their services the sum of Three Dollars (\$3) each, to be paid out of the local funds of the school district where the election was held. The Board of Trustees, when ordering such election and appointing persons to hold election, shall give notice of the time and place where such election will be held, which notice shall be posted at three (3) public places within the district at least twenty (20) days prior to the date of holding said election. If, at the time and place for holding such election, any or all of the persons so appointed to hold such election are absent or refuse to act, then the electors present may select of their number a person or persons to act in the place of those absent or refusing to act. Said Board of Trustees shall meet and canvass the returns of said election within five (5) days after returns have been made and declare the result of said election and issue to the persons so elected their commissions as such trustees, and shall notify the County Judge or the County Superintendent if the county has a Superintendent. As amended Acts 1949, 51st Leg., p. 341, ch. 169, § 1.

Emergency. Effective May 13, 1949.

**2. INDEPENDENT DISTRICTS IN TOWNS****Art. 2767. Change of districts**

Junior college districts, dissolution in manner provided in this article, see art. 2815q.

**3. INDEPENDENT DISTRICTS IN CITIES****Art. 2777d. Term of office of school trustees in certain districts**

Section 1. In all cities constituting independent school districts, or which have assumed control of their public free schools, and which have a population of not less than seventy-five thousand (75,000) and not more than one hundred and seventy-five thousand (175,000) according to the last preceding Federal Census, and in all independent school districts created under the provisions of any General Law or by Special Act of the Legislature which such districts have within their boundaries a city having a population of not less than seventy-five thousand (75,000) and not more than one hundred and seventy-five thousand (175,000) according to the last preceding Federal Census, the term of office of school trustees shall be six (6) years.

Sec. 2. Immediately after this Act becomes effective as to any school district the trustees of such district shall determine by lot the terms to be served by such trustees. Three (3) trustees shall be so chosen from those having the shortest remaining term unexpired at the effective date of this Act as to such school district and such three (3) trustees shall serve until the first Saturday in April of the next even numbered calendar year, at which time three (3) trustees shall be elected for a term of six (6) years. Two (2) trustees shall be so chosen from those having the longest remaining term unexpired at the effective date of this Act as to such school district and such two (2) trustees shall serve until the first Saturday in April of the next even numbered calendar year and for four (4) years thereafter when two (2) trustees shall be elected for a term of six (6) years. The remaining two (2) trustees shall serve until the first Saturday in April of the next even numbered calendar year and for two (2) years thereafter when two (2) trustees shall be elected for a term of six (6) years. Thereafter on the first Saturday in April of each even numbered calendar year two (2) or three (3) trustees as the case may be shall be elected to serve for a term of six (6) years. All elections held under the provisions of this Act shall be held on the first Saturday in April of even numbered calendar years, the first such election to be held on the first Saturday in April, 1950. If there be fewer than seven (7) trustees in any school district at the time this Act becomes effective as to such district, vacancies shall be filled by the remaining trustees.

Sec. 3. The members of the board remaining after a vacancy shall fill the same for the unexpired term.

Sec. 4. Except as modified by this Act, all such elections in such independent school districts shall be held in the manner and in conformity with provisions of law now applicable.

Sec. 5. The provisions of this Act shall be cumulative of all General Laws on the subject not in conflict herewith, and where not otherwise provided herein, such General Laws shall apply, but in case of conflict the provisions of this Act shall control and be effective. As amended Acts 1949, 51st Leg., p. 143, ch. 87, § 1.

Emergency. Effective April 26, 1949.

#### **Art. 2783d. Separation from municipal control of extended municipal school district having city of 290,000 or more**

##### **Board of Education or Board of Trustees**

Sec. 6. The Board of Education or Board of Trustees of such independent school district, after separation from municipal control, shall consist of nine (9) members, elected by the qualified voters of such school district, six (6) of whom shall be elected from districts hereinafter provided to be created and three (3) at large, and when elected shall serve for a term of three (3) years; the terms shall be so arranged that three (3) members will be elected annually at an election to be held on the first Saturday of April. The present members of the Board of Education of any such district shall, one hundred and twenty (120) days before the first Saturday in April, 1950, cause such school district to be divided into six (6) districts according to the population so that all such districts will have approximately the same population, and shall designate such districts, numbers one to six (1 to 6) inclusive. From time to time the Board shall have authority to change the boundaries of the six (6) districts so that the population in these districts may remain approximately equal. The three (3) places at large shall be designated Number Seven (7), Number Eight (8) and Number Nine (9). At the first election to be held under this amendment there shall be elected five (5) members

of the Board of Education who, together with the remaining four (4) members of the present Board who have two (2) or more years of their term unexpired, shall compose the Board of Education. The present Board of Education likewise shall designate the places to be held by the four (4) members of the present Board who have two (2) or more years of a term unexpired, so that at the first election there shall be elected five (5) members to occupy the five (5) places to be filled at said election, so that upon their election and qualification, members holding places Number One (1), Number Four (4) and Number Seven (7) shall serve for a period of one (1) year, members holding places Number Two (2), Number Five (5) and Number Eight (8) shall serve for a period of two (2) years, and those holding places Number Three (3), Number Six (6) and Number Nine (9) shall serve for three (3) years, and thereafter there shall be elected annually three (3) members for the respective places, who shall hold office for three (3) years. In case of a vancancy caused by a death or resignation or removal from the district from which such member is elected, the remaining members of the Board of Education shall select a suitable person to fill the unexpired term, who shall serve until the next general annual election, and if the term has not expired shall be elected for the remaining unexpired term, otherwise, for a full term of three (3) years. As amended Acts 1949, 51st Leg., p. 727, ch. 391, § 1.

Emergency. Effective June 13, 1949.

#### Art. 2783e. Separation from municipal control; validation of acts

Section 1. All independent school districts in the State of Texas heretofore under municipal control of any incorporated city or town, and which have heretofore been separated or divorced from, or attempted to be separated or divorced from and made independent of, municipal control, by, or after, an election held in such city or town in which a majority of the voters voting at such election voted in favor of such separation or divorcement, and including elections held pursuant to and in conformity with Acts 1929, 41st Legislature, page 674, Chapter 302 (Vernon's Annotated Civil Statutes, Article 2783a) are hereby in all things ratified, confirmed and validated.

Sec. 2. Such school districts be and constitute independent school districts, independent of and free from municipal control, and the board of trustees thereof shall hereafter have and exercise authority to control and manage such independent school districts; and their acts heretofore done and had while acting as such trustees, including those pursuant to the provisions of said Article 2783a, are hereby validated.

Sec. 3. The title to all property owned and used by such city or town theretofore acquired and used for school purposes, or which has been attempted to be acquired by such school districts, is hereby vested in such school districts and shall be managed and controlled by such board of trustees as is now, or hereafter may be, provided by General Law.

Sec. 4. All school trustees holding office and serving as such at the time of said separation or attempted separation from municipal control shall continue to hold their offices and shall serve as trustees of such independent school district until the terms to which they were respectively elected shall expire, as provided by law, and all trustees heretofore elected at an election held, or attempted to be held in such school district after such separation or attempted separation as stated in Section 1 hereof, are hereby in all things confirmed and the elections therefor are hereby validated.

Sec. 5. Any election heretofore held in an independent school district in compliance or attempted compliance with Article 2783a (Vernon's Annotated Civil Statutes) at which a majority of the voters voting at such election voted in favor of the assumption, by the independent school district separated or attempted to be separated from municipal control, of the outstanding bonded indebtedness for school purposes only of the city theretofore constituting such school district and the levy of a tax in payment thereof is hereby in all things ratified, confirmed and validated.

Sec. 6. The extension, expansion, alteration and changes in boundaries of any such school districts named in Section 1 hereof, made or attempted to be made by the county board of school trustees in the county in which such districts are situated, are hereby ratified, confirmed and validated.

Sec. 7. All acts of the county board of school trustees in the county in which such districts are situated, in re-arranging, changing, grouping, sub-dividing, increasing or decreasing area of; in creating or forming new districts out of parts or all of existing districts; in annexing common or independent school districts to, or consolidating same with, other independent school districts or common school districts; and all actions of county boards of school trustees in consolidating elementary districts within rural high school districts, within elementary districts, or within elementary districts annexed to independent school districts; placing such districts in others, and all attempts at any of such acts; as well as all acts of governing bodies of any such municipalities, cities or towns to annex territories to such municipally controlled districts, are hereby in all things validated.

Sec. 8. All such school districts 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 Acts 1945, 49th Legislature, page 488, Chapter 304, as amended; Acts 1947, 50th Legislature, page 534, Chapter 314, Articles 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, 43rd Legislature, page 376 (Vernon's Annotated Civil Statutes, Articles 2784e, 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. 9. All taxes levied or assessed by any of such school districts, by any of the methods mentioned in this Act on any property included in such districts or within the boundaries thereof by any method mentioned in this Act, is hereby in all things ratified, confirmed and validated.

Sec. 10. All such school districts are hereby authorized to issue bonds for school purposes and to levy, assess and collect taxes therefor in accordance with General Laws.

Sec. 11. Except as provided herein, the General Laws governing independent school districts shall govern such districts.

Sec. 12. This Act shall not apply to any district now involved in litigation in which the validity of any of the acts purporting to be validated by this Act is attacked. Provided further, this Act shall not apply to any district which may have been established or consolidated and which later returned to its original status.



Sec. 13. 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 for constitutional or other reasons, it shall not affect any other word, phrase, clause, sentence, paragraph, section or part of this Act. Acts 1949, 51st Leg., p. 441, ch. 235.

Emergency. Effective May 21, 1949.

#### 4. TAXES AND BONDS

##### Art. 2784f. Tax rate in counties with population of 500,000

Section 1. In all counties having a population of five hundred thousand (500,000) or more, according to the last preceding or any future Federal Census, the County Judge shall, upon presentation to him of a petition praying for such an election, signed by qualified taxpaying voters of such county in a number equal to ten per cent (10%) or more of those voting for governor in the last preceding general election, order an election for the purpose of submitting to the qualified taxpaying voters of such county who own taxable property and who have duly and personally rendered it for taxation, the proposition of whether or not a tax of and at a rate not to exceed Five Cents (5¢) on the One Hundred Dollar (\$100) valuation of all property subject to school district taxation in such county shall be levied, assessed and collected for the purpose of creating an equalization fund for the public free schools in such county to be expended for the equalization of educational opportunities and payment of administrative expense.

Sec. 2. Such an election which shall be held in the same manner on the same day at the same polling place and under the same laws and regulations as have previously governed the holding of such elections in such counties; and the election supplies, ballots, and tally sheets shall be furnished by the same authorities and returns shall be made as heretofore provided for such elections. Notices thereof shall be given by publication or by posting as heretofore provided; and if and when authorization is granted, such tax shall be levied, assessed, and collected in the same manner as heretofore provided for such equalization taxes and the administration, depository bank, checking, accounting, and disbursement of such taxes shall be subject to all the rules and statutes governing school funds in such counties; it being the intention of this Act only to increase the permissive rate of tax to be levied for such purposes. Acts 1949, 51st Leg., p. 578, ch. 310.

Emergency. Effective June 3, 1949.

Section 3 of Act of 1949 repealed all conflicting laws and parts of laws.

**Title of Act:**

An Act providing for increasing the permissive rate of tax to be levied for equalizing educational opportunities in counties having a population of five hundred thou-

sand (500,000) or more, according to the latest preceding Federal Census, so that the rate permissive in such counties shall not exceed Five Cents (5¢) to be authorized by an election; repealing all laws and parts of laws in conflict; and declaring an emergency. Acts 1949, 51st Leg., p. 578, ch. 310.

##### Art. 2788a. Independent districts containing city of 100,000

###### Application of law

Section 1. The provisions of this law shall be applicable to any independent school district in the State of Texas having within its boundaries a city having a population of one hundred thousand (100,000) or more according to the last preceding Federal Census and which heretofore has adopted or hereafter shall adopt plans for financing a school building program that is proposed to be completed over a period of years.

**Date of maturity of bonds; sale in installments**

Sec. 2. To provide funds for the purpose of financing such building program said independent school districts may issue bonds in all respects in the manner authorized by law governing the issuance of bonds by all independent school districts in the State of Texas, except that the bonds may be voted to mature serially or otherwise, not later than forty (40) years from their date and payable at such time or times as may be deemed most expedient by the board of trustees of such district. Said bonds may be sold from time to time in installments, as and when funds are needed for the further prosecution of the building program.

**Delay in sale; change in building program; change of boundaries**

Sec. 3. The fact that any part of an issue of bonds heretofore voted or which may be voted hereafter may not be sold for several years shall not be construed as an abandonment of the purpose for which such bonds were voted and the board of trustees, in its discretion, may modify, alter or change the school building program mentioned in Section 1 hereof without re-submitting to an election the proposition of the voting of the bonds. It is further provided that the power and authority to issue and sell bonds shall not be abrogated by a change in the boundaries of the district during the time any part of previously authorized bonds remain unsold, if the area of the territory added to or detached from such district does not exceed five per cent (5%) of the area of said district as it existed at the time of such attachment or detachment of territory.

**Assumption of debt by taxpayers in territory added to city**

Sec. 4. In the event territory is added to the district such territory shall not become subject to taxation for the payment of bonds until a majority of the qualified property taxpaying voters residing therein who have duly rendered property for taxation voting at an election as herein provided shall assume the outstanding debt of such district and authorize the levy of a tax to pay such outstanding debt and a tax to pay the unissued portion of the bonds remaining unsold at the time said territory is added to the district. If the number of qualified property taxpaying voters residing in said added territory is twenty (20) or less as shown by the county tax rolls, they each shall be notified in writing by the board of trustees to appear on a day designated not less than ten (10) days from the date of the mailing of notice, at the office of the board of trustees and cast their ballot for or against the proposition of assuming the debt and authorizing the levy of a tax in payment thereof and the levy of a tax in payment of bonds theretofore authorized but remaining unsold. The board of trustees shall count the ballots thus cast and declare the result thereof and if it be determined that a majority of those casting their ballots voted in favor of the proposition, the board shall be authorized to assess, levy and collect taxes in said added territory for such purposes. If the number of qualified property taxpaying voters residing in said added territory is more than twenty (20), then the board of trustees shall, without the prerequisite filing of a petition, order an election to be held within said added territory for the purpose of submitting to the qualified property taxpaying voters the proposition of assuming the outstanding bonded indebtedness of the district and the levying of a tax in payment thereof and the levy of a tax to pay the bonds theretofore authorized by the district but at such time remaining unsold. Except as otherwise provided herein, such election shall be called and held in accordance with the law governing the

authorization of bonds by independent school districts. In the same manner and at the same election there may be submitted the proposition of the levy of a maintenance tax upon the taxable property situated in said added territory for the support and maintenance of schools.

**Detachment of territory**

Sec. 5. In the event territory is detached from such district any bonds remaining unsold at the time of such detachment may subsequently be sold, but only such property as then remains in the district shall be subject to taxation for their payment.

**Cumulative character of law; conflict**

Sec. 6. This law shall be cumulative of all other Statutes authorizing the issuance and sale of bonds by independent school districts and in case the provisions of this law shall be in conflict with any other law or laws this law shall take precedence to the extent of such conflict.

**Partial invalidity**

Sec. 7. If any one or more of the sections or provisions of this Act or the application of such sections or provisions to any situation or circumstance shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this Act or the application of such sections or provisions to any other situation or circumstance, and it is intended that this law shall be construed and applied as if such unconstitutional section or provision had not been included herein. Acts 1949, 51st Leg., p. 222, ch. 123.

Emergency. Effective May 5, 1949.

**Art. 2789. 2864 Refunding bonds**

Where bonds have been legally issued, or may be hereafter issued, by any town or village incorporated for free school purposes only, or any common school district, independent school district, consolidated common school district, consolidated independent school district, county line school district, consolidated county line school district, or rural high school district, new bonds, bearing the same or a less rate of interest, may when ordered by the governing board thereof be issued either as term bonds or as serial bonds, maturing in either case within forty (40) years from date of issue, and may be made optional on any interest payment date as the governing board shall direct; provided further, that matured and unpaid interest of such district whether evidenced by past due coupons or otherwise may be refunded in like manner; and provided further, that no election shall be necessary to authorize the issuance of such new bonds; and provided further, that the State Treasurer shall, upon order of the State Board of Education, exchange bonds not matured held by him for the permanent school fund for the new refunding bonds issued by the same incorporation under the provisions of this Subdivision, in case the rate of interest on the new bonds is not less than the rate of interest on the bonds for which they are exchanged. As amended Acts 1949, 51st Leg., p. 733, ch. 394, § 1.

Emergency. Effective June 13, 1949.

**Art. 2790a—6. Levies and assessments by independent districts, cities and towns validated**

All levies of ad valorem taxes heretofore made by the governing body of any independent school district, or city or town, including home rule cities, in this State not in excess of the limit provided by law,

which are void or unenforceable because such levies were made and adopted by resolution, motion or other informal action instead of having been made by order or ordinance, as the case may be, as required by law; and all assessments of taxes or assessments of property within the limits of any such independent school district, or city or town, including home rule cities, in this State subject to taxation under the laws of this State, whether made by the officers of any such independent school district, city or town, including home rule cities, for such independent school district, city or town, including home rule cities, or whether made by the officers of any one such independent school district, city or town, including home rule cities, for another such independent school district, city or town, including home rule cities, which are insufficient, void or unenforceable because made by officers of any such independent school district, city or town, including home rule cities, other than the officers provided by law or the charter of the city to make such assessments, as the case may be, or because made by the officers of any independent school district, city or town, including home rule cities, acting for another independent school district, city or town, including home rule cities, or because of the failure of such governing body to appoint the proper and statutory Board of Equalization or to appoint the correct number of members to such Board of Equalization, as required by the laws of this State or the charter of such city, as the case may be, or because the Board of Equalization of one such independent school district, city or town, including home rule cities, acted for such independent school district, city or town, including home rule cities, and also acted for another independent school district, city or town, including home rule cities, or because of technical irregularities in the manner of preparing the books and reports of the officers assessing such property; and all equalizations of said valuations of such property for taxation purposes made by the Board of Equalization acting for any such independent school district, or city or town, including home rule cities, or acting for its own independent school district, city or town, including home rule cities, and also acting for any other independent school district, city or town, including home rule cities, which are irregular or insufficient because the reports of such equalization were adopted and accepted orally or by other informal action; and/or the acts of making such equalization were made orally or informally or in incomplete form, are each and all hereby validated, ratified, approved, confirmed, and declared enforceable, the same as though such levies and assessments of taxes had been made and adopted originally by the proper order, motion, resolution or ordinance duly passed, entered of record, and signed by the proper officials of such governing body, and the same as though such assessments of property within such independent school district, or city or town, including home rule cities, for taxation purposes had been made in due and complete form and the same as though such equalizations and the reports of each of the Boards of Equalization acting for said independent school districts, or city or town, including home rule cities, or acting for its own independent school district, city or town, including home rule cities, and also acting for any other independent school district, city or town, including home rule cities, had been made in due and regular form and adopted and accepted in due and regular form. Provided, however, that this Act shall not affect any suit or suits pending at the time same becomes effective; and provided further, that this Act shall not validate any valuation placed upon property by any Board of Equalization or any tax assessor where such property has been valued in excess of its reasonable cash market value, or where such property has been

discriminated against as to value, or placed upon the rolls at a higher value than property of like kind or at a greater percentage of its value than other property assessed for taxation by such independent school district, or city or town, including home rule cities, in which located. Acts 1949, 51st Leg., p. 1204, ch. 612, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 2790d—8. Time warrants of independent districts; counties of 18,975 to 19,025.**

Section 1. This Act shall apply to all independent school districts in counties of more than 18,975 and less than 19,025 inhabitants, according to the last preceding Federal Census. If during a scholastic year the board of trustees of any such school district determines that there will be insufficient funds to properly maintain and operate the schools in said district during the remainder of such scholastic year, said board is hereby authorized to issue time warrants for the purpose of obtaining funds with which to maintain and operate the schools in said district during the remainder of such scholastic year. Said board shall authorize the warrants by appropriate order in which a tax shall be levied for the payment of the interest on and principal of such warrants. Said warrants shall be payable serially and annually over a period of years not to exceed ten (10), and shall bear interest at a rate not to exceed five (5%) per cent. They shall be signed by the president of the board of trustees and countersigned by the secretary; provided, however, that their facsimile signatures may be printed or lithographed on any coupons of said warrants. Said warrants shall not be sold for less than par and accrued interest. All taxes levied and collected for the benefit of such warrants shall be placed in an interest and sinking fund created for the benefit thereof; provided, also, that any delinquent taxes collected after the issuance of said warrants, which delinquent taxes have not been earmarked for other purposes, may also be placed in said interest and sinking fund. The moneys of said fund shall be paid out only to pay the interest and principal requirements of said warrants.

Sec. 2. Provided, however, that the aggregate amount of time warrants that may be issued in any one (1) scholastic year shall not exceed Fifty Thousand (\$50,000.00) Dollars.

Sec. 3. No warrants 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. Acts 1950, 51st Leg., 1st C.S., p. 89, ch. 26.

Emergency. Effective, March 17, 1950.

**Art. 2790l. Tax rate in independent district wherein school building destroyed**

Section 1. Any independent school district, whether created by General or Special Law, which now or may hereafter levy a total tax of One Dollar and fifty cents (\$1.50) per One Hundred Dollars (\$100) assessed valuation of taxable property for maintenance purposes and bond interest and sinking fund purposes, and wherein a public free school building may have been destroyed by fire, flood, storm or Act of God, or may have been damaged by the same to such an extent that it is no longer usable as a public free school building, or may hereafter be so destroyed or damaged, shall have the power to annually levy and cause to be collected the following taxes:

(1) For the maintenance of the public school 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 necessary sites therefor, an ad valorem tax not to exceed seventy-five cents (75¢) 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 to pay the principal of bonds which such districts are empowered to issue for such purpose; provided, however, that the amount of such tax which may be in excess of the maximum bond tax of independent school districts under the General Law can be levied, collected and used only to pay interest on and the principal of bonds issued to repair and equip such damaged school buildings or of bonds issued to provide and equip a new building to take the place of the building so destroyed, and when the bonds issued for such purpose have been retired, the maximum amount of bond tax of the districts covered by this Act shall be the same as the maximum bond tax which independent school districts are authorized to levy and collect under General Law, it being the legislative intent that, except as to bonds issued to repair and equip such damaged building or to provide and equip a new school building to take the place of the one so destroyed, the maximum bond tax rate will be the same as that of independent school districts under the General Law.

(3) The amount of such 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 the 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 the difference between the rate of the bond tax and One Dollar and fifty cents (\$1.50);

(4) No tax shall be levied, collected, abrogated, diminished or increased, and no bond shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held in the district for such purpose, at which none but duly qualified property taxpaying voters of such district, who had duly rendered the same for taxation, shall be entitled to vote. Acts 1949, 51st Leg., p. 583, ch. 312.

Emergency. Effective June 3, 1949.

Section 2 of the Act of 1949 repealed all conflicting laws and parts of laws.

#### Art. 2790m. Borrowing funds and issuing time warrants; districts in counties of 30,400 to 31,150

Section 1. From and after the passage of this Act, the Board of Trustees in any independent school district with a scholastic population of not less than one thousand (1,000) and located in any county in this State having a population of not less than thirty thousand, four hundred (30,400) and not more than thirty-one thousand, one hundred and fifty (31,150), according to the last preceding scholastic and Federal census, shall have authority and full power to borrow funds not to exceed Twenty-five Thousand Dollars (\$25,000), for the purpose of supplementing funds on hand to construct and equip public free school buildings of and in said independent school districts, and to issue time warrants within the limitations and upon the condition prescribed in Section 2 hereof to evidence the indebtedness so incurred.

Sec. 2. Such time warrants as are authorized by Section 1 of this Act shall be payable within five (5) years from the effective date of this Act and shall bear interest at not more than the rate of five per cent (5%) per annum; and the Boards of Trustees of said independent school districts shall levy a sufficient tax, within legal limitations, to pay the interest on said obligations, and to create a sinking fund sufficient to discharge them at maturity. The powers granted by this Act shall be exercised by the Boards of Trustees of said districts without the necessity of a vote of the people.

Sec. 3. The provisions of this Act shall be cumulative of all other laws General or Special, and shall not be interpreted as repealing any existing powers in such school districts; but in the event that any of the provisions are in conflict with the provisions of any other law, General or Special, the provisions hereof shall take precedence and shall prevail to the extent of such conflict.

Sec. 4. If any provision or Section of this Act is held unconstitutional or invalid, the same shall not operate to defeat the whole Act, but all other parts shall stand and remain in full force and effect. Acts 1949, 51st Leg., p. 784, ch. 423.

Emergency. Effective June 14, 1949.

**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 gymnasia, stadia, or other recreational facilities owned by the same, and to purchase additional buildings and grounds for the purpose of constructing additions to existing gymnasia, stadia, and other recreational facilities, and to mortgage and encumber said original stadia, gymnasia, or other recreational facilities, together with the additional buildings and grounds and additions to existing gymnasia, stadia, and other recreational facilities, and the income, tolls, fees, rents, and other charges thereof, and everything pertaining thereto acquired or to be

acquired, and to evidence the obligation therefor by the issuance of bonds to secure the payment of funds to purchase the same, including the purchase 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 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 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 1949, 51st Leg., p. 730, ch. 393, § 1.

Emergency. Effective June 13, 1949.

**Art. 2802i—28. Tax rate in common school districts in counties of 55,000 to 61,000**

Section 1. Any Common School District in counties which according to the last preceding Federal Census, having a population of not less than fifty-five thousand (55,000) and not more than sixty-one thousand (61,000), and having valuation for tax purposes of exceeding Seventy-five Million (\$75,000,000.00) Dollars, which now levies a total tax of One Dollar and Fifty Cents (\$1.50) per Hundred Dollars assessed valuation of taxable property for maintenance purposes and bond and interest sinking fund purposes, may levy, assess, and collect taxes at not to exceed the following rates per Hundred Dollars of assessed valuation of taxable property, to wit:

For Maintenance purposes, One Dollar and Seventy-five Cents (\$1.75) per Hundred Dollars of assessed valuation; for bond interest and sinking fund purposes, Seventy-five Cents (75¢) per Hundred Dollars of assessed valuation; but the combined tax for both purposes shall never exceed One Dollar and Seventy-five Cents (\$1.75) per 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 tax in excess of One Dollar and Fifty Cents (\$1.50) on the Hundred Dollars of assessed valuation as hereby authorized, the Commissioners Court of said county shall order and hold an election within such district for the purpose of determining whether a majority of the voters voting there desire to authorize the Commissioners Court to levy such tax. At such election none but qualified voters who are property taxpayers of such district shall be entitled to vote. The Election Order and Notice of Election shall in all cases either state the specific rate of tax to be voted upon, or that the rate shall not exceed the limit herein specified. Notice of Election shall be given for the length of time and in the manner prescribed by law for elections for trustees of Common 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

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

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.

Sec. 3. If any section, paragraph, or provision of this Act be declared unconstitutional or invalid for any purpose, 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. Acts 1949, 51st Leg., p. 533, ch. 295.

Emergency. Effective May 11, 1949.

with are expressly suspended to the extent of such conflict.

Section 4 of the act of 1949, provided that all laws and parts of laws in conflict here-

## 5. ADDITIONS AND CONSOLIDATIONS

### Art. 2803c. Independent district redefined to include territory in more than one county; validation of acts and elections

Section 1. In each instance where an Independent School District, originally established in one county, is re-defined by orders of County Boards of School Trustees fixing its boundaries so as to include territory in more than one county, and an order re-defining and fixing the same boundaries for such District is passed by the County Board of Trustees of each county in which such District is situated, such District is hereby validated and declared to be a valid, existing and duly incorporated Independent School District and subject to the General Laws relating to Independent School Districts; and the orders passed by such County Boards of School Trustees re-defining and fixing boundaries of such Districts are hereby validated.

Sec. 2. Where, after having been re-defined as provided in Section 1 hereof, an election or elections have been held in any such District resulting favorably to the authorization of a maintenance tax, the assumption of outstanding bonded indebtedness of Districts or parts thereof included in such enlarged District and the levy of taxes therefor, and the authorization of bonds and the levy of taxes therefor, or resulting favorably to any of such propositions, such election or elections are hereby validated, and such Districts are hereby empowered to carry authority conferred by said elections.

Sec. 3. This Act shall not apply to any District which on the effective date of this Act is involved in litigation brought by qualified voters or taxpayers residing therein, which questions the creation, annexation or consolidation of such a District, or the election for the purpose of creating, annexing or consolidating such a District. Acts 1949, 51st Leg., p. 831, ch. 449.

Emergency. Effective June 19, 1949.

### Art. 2805a. Election to assume indebtedness and levy tax

Section 1. In any case where existing laws permit the annexation of all or a part of any school district or other additional area to another school district, or the consolidation of any districts, or other alteration or change of any district, and such laws do not expressly authorize the trustees of the district as it is thereafter constituted to call an election therein for voting upon the assumption of any bonded or other debt created prior to annexation or consolidation and for the levy of taxes for the payment of same and for further maintenance and operation by the qualified property tax paying voters, and such election is required, the trustees of such district are hereby authorized to call such election for any or all of said purposes, which election may be held at such time and manner and upon such notice as is now or may hereafter be provided

by the General Law regulating the holding of elections by independent and common school districts for the issuance of bonds or levying of taxes for maintenance and operation.

Sec. 2. This Act shall apply to any school district, however created, and shall not be exclusive but shall be cumulative of and in addition to all other laws relating to the subject. All orders, notices and proceedings taken by any board for the calling or holding of such elections prior to the effective date hereof are hereby validated in all respects as if taken under authority of this Act. Acts 1949, 51st Leg., p. 944, ch. 518.

Emergency. Effective June 29, 1949.

**Art. 2806d. Validation of consolidations of common school districts with independent districts; defective election call**

Section 1. All consolidations, or attempts at consolidation, of one or more common school districts with one or more independent school districts after an election was held and a majority of the legally qualified voters in each of such districts voting in such election voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as though they had been so consolidated or established in the first instance, and shall include such attempted consolidations where the election proceedings call for the consolidation of one or more common school districts with an independent school district, but did not provide for the consolidation of each common school district with each other common school district.

Sec. 2. All proceedings had by any such consolidated districts authorizing the issuance of bonds after such attempted consolidation are hereby in all things validated, and the bonds authorized by such proceedings are in all respects validated.

Sec. 3. The provisions of this Act shall not apply in any instance where the consolidation or consolidations, or the proceedings authorizing the issuance of any bonds or such bonds, are in litigation in any of the courts of this State at the time of the passage of this Act. Acts 1949, 51st Leg., p. 146, ch. 90.

Emergency. Effective April 26, 1949.

Section 4 of the Act of 1949 repealed all conflicting laws and parts of laws.

**Title of Act:**

An Act validating the consolidation of certain common and independent school districts where a majority of the qualified voters of each of the affected districts approved such consolidation at an election

held for such purpose; validating the bonds of such consolidated districts and the proceedings had authorizing same after such attempted consolidation; providing such validation shall not apply to districts now in litigation; repealing all laws in conflict herewith; and declaring an emergency. Acts 1949, 51st Leg., p. 146, ch. 90.

**Art. 2806e. Trustees of larger district as trustees of consolidated district until terms expire**

From and after the effective date of this Act wherever two (2) or more independent school districts are consolidated under existing law and one of such independent school districts so consolidated with one (1) or more others shall have at the time of such consolidation a scholastic enrollment in excess of five (5) times that of the other district, or in excess of five (5) times the combined scholastic enrollment of all the other districts included in such consolidation, the Board of Trustees of said larger district shall serve as the Board of Trustees of the consolidated district until the terms of the respective members thereof shall expire, at which time their successors shall be elected from the consolidated district as provided by law; it being the intention to provide herein that the respective trustees of the larger district shall

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

serve until their current terms expire and their successors are elected from the consolidated district; and it shall not be necessary to elect another new Board for the consolidated district at the next general election following the consolidation, but there shall be elected from such consolidated district at such time only the successors to those members of the Board whose terms expire then. Acts 1949, 51st Leg., p. 468, ch. 252, § 1.

Emergency. Effective May 21, 1949.

Section 2 of the act of 1949, provided that all laws or parts of laws in conflict herewith are expressly repealed to the extent of

the conflict only; otherwise this Act shall be cumulative of all other existing laws relative to the consolidation of independent school districts.

## Art. 2815—2. Consolidation of rural high school districts and other districts

Section 1. Rural high school districts (whether formed by grouping or by annexation), common school districts, common county line school districts, independent school districts, and county line independent school districts, including elementary districts which, without a separate majority vote therein, were annexed to or grouped with other districts under Chapter 59, Acts of the 39th Legislature, as amended,<sup>1</sup> relating to rural high school districts, may be consolidated in the manner provided by Article 2806, Revised Civil Statutes, as amended; provided, however, that no such elementary district may be consolidated under this Act with any other district if, at the time of presenting a petition for the consolidation election, the district with which it was attached or grouped has bonds actually outstanding which were voted and issued after it was so annexed or grouped. Provided further, that each such rural high school district included in such consolidation shall be considered as one district for voting purposes in such consolidation election. The proposition to be submitted at the consolidation may specify the name of the district, and such name need not contain the word "consolidated".

Sec. 2. If a majority of the votes cast in each district is in favor of the consolidation, they shall be consolidated, except that the proposition submitted may specify that the districts in which the majority vote favors consolidation shall be consolidated even though the majority vote in certain districts or a certain number of districts is against consolidation.

Sec. 3. The provisions of Article 2806, as amended, with reference to the Board of Trustees to serve until the next regular trustee election, shall be applicable to districts consolidated under this law, unless otherwise provided in the proposition submitted at the consolidation election, in which event the trustees to serve until the next regular trustee election shall be appointed or selected as provided in said proposition.

Sec. 4. Any district formed by a consolidation under this Act shall constitute an independent school district and be governed by the General Laws applicable to independent school districts, and it may thereafter be consolidated with any other district or districts under the provisions of this Act.

Sec. 5. Any district heretofore formed by consolidation in the manner provided in this Act is hereby validated and declared to constitute an independent school district; provided, however, that this validation shall not apply to any consolidation involved in litigation brought by a taxpaying voter therein questioning the validity of such consolidation. Acts 1949, 51st Leg., p. 1118, ch. 573.

<sup>1</sup> Article 2922a et seq.

Emergency. Effective July 22, 1949.

## 6. DISTRICTS IN LARGE COUNTIES

## Art. 2815g—39. Validation of districts, acts, bonds and elections; consolidations; taxes

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, consolidated independent school districts, rural high school districts, all county line school districts, including county line common school districts, county line independent school districts, county line rural high school districts, county line consolidated common school districts, county line consolidated independent school districts, and all other school districts, groups or annexations of whole districts, or parts of districts, whether established, organized, and/or created by vote of the people residing in such districts, or by action of the governing body of any such municipalities, or by action of the county school boards, or by action of the county judges, or by action of the commissioners courts, and whether created by General or Special Law in this State, and heretofore recognized by either state or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance.

All acts of the county boards of trustees of any and all counties in rearranging, grouping, annexing, changing, detaching and attaching of territory, or subdividing such school districts, or increasing or decreasing the area thereof, or abolishing school districts, in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, or detaching or eliminating any district or districts from an existing district, and all acts of the governing bodies of any such municipalities in annexing territories to such municipally controlled school districts, are hereby in all things validated.

All consolidations, or attempts at consolidation, of school districts after an election was held and a majority of the legally qualified voters in each such districts voting in such election voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as though they had been so consolidated or established in the first instance, and shall include, among others, such attempted consolidations where the election proceedings call for the consolidation of one or more common school districts and/or one or more independent school districts with an independent school district, or consolidated common school district, but did not provide for the consolidation of each such common school district and/or independent school district with each other such district.

All acts of the county judges, and/or the commissioners courts, and/or the county boards of school trustees in converting or changing one type of school district into another type of school district are hereby in all things validated, and all elections called by such officers for such conversion or change, in which election a majority of the qualified voters voting therein voted in favor thereof, are hereby in all things validated, and all such converted or changed school districts are hereby in all things validated as though they had been legally established in the first instance.

All acts of the governing bodies of municipalities and/or of the boards of trustees of municipally controlled or assumed school districts and/or cities and towns constituting separate and independent school districts and/or extended municipal school districts, in ordering elec-

tions for the separation or divorcement of such schools and/or districts from municipal control, jurisdiction or authority, in which elections a majority of the qualified voters voting therein voted in favor of such separation or divorcement, are hereby in all things validated, and the school districts formed by such separation or divorcement are hereby in all things validated, and the organization and acts of the boards of trustees of any and all such districts are in all things validated. Provided, that this Act shall not be construed to validate an extension of the boundaries of an independent school district by virtue of the extension of boundaries of a home-rule city where such school district is a separate and distinct school district and is not a city-controlled or city-assumed school district, unless the qualified voters of such school district have heretofore by majority vote authorized the extension of such school district boundaries at an election called for that purpose.

The boundary lines of any and all such school districts are hereby in all things validated.

All acts of the boards of trustees in such school districts or the governing bodies of such municipalities or the county judges or the commissioners courts ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such school districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not issued, and all tax elections, bond elections, and bond assumption elections following such consolidation, annexation, grouping, attachment or detachment, conversion, change, etc., are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county or school district or municipality in the creation of any district was omitted, shall in nowise invalidate such district; and the fact that by inadvertence or oversight any act was omitted by the board of trustees of any such district or the county judge or the commissioners court or the governing body of any such municipality in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such districts, or in the issuance of the bonds of any such district, shall in nowise invalidate any of such proceedings or any bonds so voted or issued by such district.

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax, or not to exceed the rate of tax as heretofore authorized or attempted to be authorized by any act of the district or by any election of the taxpaying voters of said districts or by any Act whether General or Special by the Legislature, or as is now being levied, assessed, and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said districts, or by any Act, whether General or Special, of the Legislature.

Sec. 3. This law shall not apply to any district which is now involved in litigation in any district court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization or creation of such district or the consolidation or annexation of territory in or to such district is attacked. Provided further, that this Act shall not apply to any district which has heretofore been declared invalid by a court of competent jurisdiction of this State or which may have been established and which was later returned to its original status. This Act shall not apply to any district which on the effective date of this Act is involved in litigation which questions the validity of the formation of such district, or the validity of the election for the purpose of forming or creating such district, or the validity of the acts of persons purporting to be the trustees thereof because of the al-

leged invalidity of such district, or the validity of any elections subsequent to the purported formation or creation of such alleged invalid district for the purpose of assumption of indebtedness or levy of special maintenance taxes; nor shall this Act in court proceedings pending at the time of the effective date hereof have the effect of validating any of such districts, elections, or proceedings in the event the courts shall hold them to be illegal or invalid under the General Laws; nor shall this Act be construed as authorizing for the future the formation of county line rural high school districts with legal status of strict independent school districts organized under the General Laws.

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 1949, 51st Leg., p. 21, ch. 23.

Emergency. Effective March 8, 1949.

**Title of Act:**

An Act to validate the establishment, organization, and/or creation of all school districts, validating the acts of county boards of school trustees, county judges, commissioners courts, boards of trustees of such school districts, and municipal governing bodies; validating tax elections, bond elections, bond assumption elections, and all bonds voted, authorized, and/or now outstanding of said districts; authorizing the levy, assessment, and collection of taxes; providing that this Act shall not apply to certain districts involved now or previously involved in litigation, or to districts which may have been established and which later returned to

original status, or to any extension of boundaries of a separate independent school district by virtue of an extension of boundaries of a home-rule city, which school district is not a city-controlled or city-assumed school district unless a majority of the qualified voters of such district have heretofore authorized the extension of such school district boundaries at an election called for that purpose; providing that this Act shall not be construed as authorizing for the future the formation of county line rural high school districts with the legal status of strict independent school districts organized under the General Laws; providing a saving clause; and declaring an emergency. Acts 1949, 51st Leg., p. 21, ch. 23.

**Art. 2815g—40. Validation of consolidation of independent districts with other districts**

Section 1. Any Independent School District which has been enlarged by consolidation with other Independent or Common School Districts as shown by orders of the Commissioners Court canvassing the returns of elections held in the consolidating Districts, and which has been enlarged by grouping or by annexation of other Common or Independent Districts or parts of Districts by an order of the County Board of School Trustees of the county in which such Independent School District is situated, and whose boundaries have been defined by an order or orders passed by the County Board of School Trustees of the county in which such Independent School District is situated at the time of or since the last boundary change, and where the County Board of School Trustees or the Commissioners Court has passed an order declaring that such District shall constitute an Independent School District and be governed by general laws applicable to Independent School Districts, is hereby validated and declared to be a valid existing and duly incorporated Independent School District subject to the General Laws applicable to Independent School Districts notwithstanding the fact that some of the annexations or groupings were had or purported to have been had under the laws relating to Rural High School Districts. The acts of Commissioners Courts and County Boards of School Trustees, in making such consolidations, annexations or groupings and in redefining the boundaries of such Districts and in declaring such Districts Independent School Districts are hereby validated.

Sec. 2. All elections heretofore held in any such Independent School District resulting in favor of the levy of a maintenance tax, the assumption of outstanding bonds, or the issuance of bonds, or in favor of all of such propositions, as declared by the District Board of Trustees, are hereby validated.

Sec. 3. This Act shall not apply to any District which on the effective date of this Act is involved in litigation which questions the legality of the formation or creation of such District, or the validity of the election for the purpose of forming or creation of such District, or the validity of the acts of persons purporting to be the Trustees thereof, or the validity of any elections subsequent to the purported formation or creation of such District for purpose of assumption of indebtedness or levy of special maintenance taxes; nor shall this Act have the effect of validating any of such Districts, elections, or proceedings in the event the Courts shall hold them to be illegal or invalid under the General Laws; nor shall this Act be construed as authorizing for the future the formation of County-Line Rural High School Districts with legal status of strict Independent School Districts. Acts 1949, 51st Leg., p. 45, ch. 25.

Emergency. Effective March 9, 1949.

**Title of Act:**

An Act Validating Independent School Districts which have been enlarged by consolidations with other Districts and by orders of County Boards of School Trustees, and whose boundaries have been defined by orders passed by the County Board of School Trustees of the county in which the principal school of the Independent District is situated; validating orders passed by

Commissioners Courts and County Boards of School Trustees making such Districts; validating elections held by such Districts for maintenance taxes, assumption of outstanding bonds, and the issuance of bonds; provided that this Act shall not apply to any District involved in litigation which questions the legality of the formation or creation of such District; and declaring an emergency. Acts 1949, 51st Leg., p. 45, ch. 25.

**Art. 2815g—41. Validation of independent districts whose boundaries redefined; bond and tax elections**

Section 1. In each instance where the boundaries of an independent school district have been redefined and fixed by an order of the County Board of School Trustees of the county in which such district is situated, and where such Board has found that the boundaries thus fixed have been known and recognized by the said Board and other officials of the county and by the people residing in the district, and where the order thus redefining and fixing such boundaries provides that the district shall constitute an independent school district, such district is hereby validated and declared to be a valid, existing and duly incorporated independent school district and subject to the General Laws relating to independent school districts, and the orders passed by such County Boards of School Trustees redefining and fixing boundaries of such districts are hereby validated.

Sec. 2. Where, after having been redefined as provided in Section 1 hereof, an election or elections have been held in any such district resulting favorably to the authorization of a maintenance tax, the assumption of outstanding bonded indebtedness of districts or parts thereof included in such enlarged district and the levy of taxes therefor, and the authorization of bonds and the levy of taxes therefor, or resulting favorably to any of such propositions, such election or elections are hereby validated, and such districts are hereby empowered to carry out authority conferred by said elections.

Sec. 3. This Act shall not apply to any annexation or consolidation or any bond or tax election the validity of which has been attacked by litigation on the effective date of this Act. This Act shall not ap-



ply to any district which on the effective date of this Act is involved in litigation which questions the validity of the formation of such district, or the validity of the election for the purpose of forming or creating such district, or the validity of the acts of persons purporting to be the trustees thereof because of the alleged invalidity of such district, or the validity of any elections subsequent to the purported formation or creation of such alleged invalid district for the purpose of assumption of indebtedness or levy of special maintenance taxes; nor shall this Act in court proceedings pending at the time of the effective date hereof have the effect of validating any of such districts, election, or proceedings in the event the courts shall hold them to be illegal or invalid under the General Laws; nor shall this Act be construed as authorizing for the future the formation of county line rural high school districts with legal status of strict independent school districts organized under the General Laws. Acts 1949, 51st Leg., p. 50, ch. 29.

Emergency. Effective March 10, 1949.

**Title of Act:**

An Act validating certain independent school districts which have been redefined by County Boards of Trustees; validating such orders passed by County Boards of Trustees; validating elections held in such districts to authorize maintenance taxes, assumptions of bonded indebtedness and the issuance of bonds; enacting other provisions relating to the subject; providing that this Act shall not apply to any annexa-

tion or consolidation or any bond or tax election the validity of which has been attacked by litigation on the effective date of this Act, nor to certain districts involved in litigation on the effective date of this Act; providing that this Act shall not be construed as authorizing for the future the formation of county line rural high school districts with legal status of strict independent school districts organized under the General Laws; and declaring an emergency. Acts 1949, 51st Leg., p. 50, ch. 29.

**Art. 2815g—42. Validation of consolidation; one district included in annexation election**

Section 1. In each instance where elections have been held separately in a Rural High School District, one or more Independent School Districts and one or more Common School Districts situated in more than one county for the consolidation of such districts, and the majority vote in each such district was in favor of the consolidation of the districts, and where the proposition submitted at such elections contained a provision that the district would thereafter be governed by the General Laws applicable to Independent School Districts, the calling and holding of said elections, and all elections thereafter held in which the majority vote in each district was in favor of a consolidation of such consolidated district and other districts, and the orders passed by the Commissioners Court of each county in which each district or the principal school thereof is located declaring the results of the election, consolidating the districts, and designating names for such consolidated districts, are hereby validated and ratified. Any district formed by such consolidation or consolidations is hereby declared to constitute an Independent School District subject to the General Laws relating to Independent School Districts notwithstanding the fact that any one of the districts involved in a consolidation was included in an election to authorize its annexation to another district under laws relating to Rural High School Districts where the district voting for the consolidation was not afforded an opportunity to vote separately in the annexation election and where the consolidation election or elections were held not more than sixty days after the annexation.

Sec. 2. If the proposition submitted to the voters at any such consolidation elections provided that the first board of trustees of the consolidated district should be appointed by a Commissioners Court, the Commissioners Court shall appoint such board in accordance with such

proposition, and the board so appointed shall serve until the next regular election, at which time seven trustees shall be elected and serve the terms as provided in Article 2745, Revised Civil Statutes, as amended.

Sec. 3. This Act shall not apply to any district which on the effective date of this Act is involved in litigation brought by qualified voters or taxpayers residing therein which questions the creation, annexation or consolidation of such a district, or the election for the purpose of creating, annexing or consolidating such a district. Acts 1949, 51st Leg., p. 228, ch. 127.

Emergency. Effective May 9, 1949.

#### Art. 2815g—43. Validation of districts and acts and orders relating thereto

Section 1. All school districts, including any independent school district controlled by a municipality and including common school districts, independent school districts, junior college districts, consolidated common school districts, consolidated independent school districts, rural high school districts, all county line school districts, including county line common school districts, county line independent school districts, county line rural high school districts, county line consolidated common school districts, county line consolidated independent school districts, and all other school districts, groups or annexations of whole districts, or parts of districts, whether established, organized, and/or created by vote of the people residing in such districts, or by action of the governing body of any such municipalities, or by action of the county school boards, or by action of the county judge, or by action of the commissioners courts, and whether created by general or special law in this State, and heretofore recognized by either State or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance.

All acts of the county boards of trustees of any and all counties in rearranging, consolidating, grouping, annexing, changing, detaching and attaching of territory, or subdividing any and all such school districts, or increasing or decreasing the area thereof, or abolishing school districts, in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, and all acts of the governing bodies of any such municipalities in annexing territories to such municipally controlled school districts, are hereby in all things validated.

All acts and orders of the county board of trustees of any and all counties in adding territory to any junior college district, which said college was originally created with the same boundary lines as an independent school district and to which independent school district territory has been added, such added territory to such college district being the same that was added to said independent school district and making the boundary lines of such districts identical, are hereby in all things validated, regardless whether such order or orders of the county board were enacted at the time of the addition of territory to the independent school district or subsequent thereto, and whether such orders were entered nunc pro tunc or otherwise. All elections for bonds, the levy and collection of taxes, and/or debt assumption ordered by the governing body of such junior college district and held over the entire enlarged or extended area, in which election a majority of the qualified voters owning taxable property within such junior college district as enlarged or extended and having duly rendered the same for taxation, are hereby in all things validated, and said governing body is hereby authorized to issue such bonds and levy such taxes, and the indebtedness so assumed is hereby declared to be the indebtedness of such enlarged junior college district.

All consolidations, or attempts at consolidation, of school districts after an election was held and a majority of the legally qualified voters in each such district voting in such election voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as though they had been so consolidated or established in the first instance, and shall include, among others, such attempted consolidations where the election proceedings call for the consolidation of one or more common school districts and/or one or more independent school districts with an independent school district, but did not provide for the consolidation of each such common school district and/or independent school district with each other such district.

All acts of the county judges, and/or the commissioners courts, and/or the county boards of school trustees in converting or changing one type of school district into another type of school district are hereby in all things validated, and all elections called by such officers for such conversion or change, in which election a majority of the qualified voters voting therein voted in favor thereof, are hereby in all things validated, and all such converted or changed school districts are hereby in all things validated as though they had been legally established in the first instance.

All acts of the governing bodies of municipalities and/or of the boards of trustees of municipally controlled or assumed school districts and/or cities and towns constituting separate and independent school districts and/or extended municipal school districts, in ordering elections for the separation or divorcement of such schools and/or districts from municipal control, jurisdiction or authority, in which elections a majority of the qualified voters voting therein voted in favor of such separation or divorcement, are hereby in all things validated, and the school districts formed by such separation or divorcement are hereby in all things validated, and the organization and acts of the boards of trustees of any and all such districts are hereby in all things validated.

The boundary lines of any and all such school districts are hereby in all things validated. The names of any and all such school districts are hereby in all things validated.

All acts of the boards of trustees in such school districts or the governing bodies of such municipalities or the county judges or the commissioners courts ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such school districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not issued, and all tax elections, bond elections, and bond assumption elections following such consolidation, annexation, grouping, attachment or detachment, conversion, change, etc., are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county or school district or municipality in the creation of any district was omitted, shall in nowise invalidate such district; and the fact that by inadvertence or oversight any act was omitted by the board of trustees of any such district or the county judge or the commissioners court or the governing body of any such municipality in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such districts, or in the issuance of the bonds of any such district, shall in no wise invalidate any of such proceedings or any bonds so voted or issued by such district.

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax, or not to exceed the rate of tax as heretofore authorized or attempted to be authorized by any act of the district or by any election of the taxpaying voters of said districts or by any Act whether general or special by the Legislature, or as is now being levied, assessed, and collected therein and

heretofore authorized or attempted to be authorized by any act or acts of said districts, or by any Act, whether general or special, of the Legislature.

Sec. 3. This law shall not apply to any district which is now involved in litigation in any district court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization or creation of such district or the consolidation or annexation of territory in or to such district is attacked. Provided further, that this Act shall not apply to any district which has heretofore been declared invalid by a court of competent jurisdiction of this State or which may have been established and which was later returned to its original status. This Act shall not apply to any district which on the effective date of this Act is involved in litigation which questions the validity of the formation of such district, or the validity of the election for the purpose of forming or creating such district, or the validity of the acts of persons purporting to be the trustees thereof because of the alleged invalidity of such district, or the validity of any elections subsequent to the purported formation or creation of such alleged invalid district for the purpose of assumption of indebtedness or levy of special maintenance taxes; nor shall this Act in court proceedings pending at the time of the effective date hereof have the effect of validating any of such districts, elections, or proceedings in the event the courts shall hold them to be illegal or invalid under the General Laws.

Sec. 3A. Nothing herein shall validate the purported extension of the boundaries of any independent school district, not under municipal control, by virtue of the extension of the boundaries of any city situated within said district.

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 1950, 51st Leg., 1st C.S., p. 81, ch. 20.

Emergency. Effective March 16, 1950.

## 7. JUNIOR COLLEGES

### Art. 2815h. Junior college districts

#### Assessment, equalization and collection of taxes, alternative method

##### Sec. 7b.

(c) When a majority of the Board of Education of such Junior College 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 Junior College 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 Education of said Junior College District, and turned over to the Treasurer of the Junior College District for which such taxes have been collected. The property of such Junior College 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

Education for that purpose. If said taxes are assessed by a special assessor of the Junior College 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 Education as by law provided. When the County Assessor and Collector are required to assess and collect the taxes on Junior College 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 a Junior College District, the Board of Education of such Junior College 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 1949, 51st Leg., p. 610, ch. 325, § 1.

Emergency. Effective June 7, 1949.

#### Scholastic enrollment of proposed district

Sec. 17(a) Provided the proposed District may have less than seven thousand (7,000) scholastic enrollment, but not less than five thousand (5,000) in the next preceding school year, and where the State Board of Education finds that the proposed district is in a growing section, and that there is a public convenience and necessity for such Junior College. Provided, further, that as to counties having a population of not less than twenty thousand (20,000) nor more than thirty thousand (30,000) inhabitants according to the last preceding Federal Census and having an existing Junior College which has been created, operated and maintained for at least twenty-five (25) years, the State Board of Education may waive the five thousand (5,000) scholastic enrollment requirement of this section, but in no case shall a proposed district qualify with less than four thousand, five hundred (4,500) scholastics. As amended Acts 1949, 51st Leg., p. 591, ch. 317, § 1.

Emergency. Effective June 4, 1949.

#### Art. 2815h—5. Refunding bonds of junior college districts

Section 1. Junior College Districts are hereby authorized to issue refunding bonds for the purpose of refunding outstanding bonds of such Districts and coupons evidencing interest on such bonds. Such refunding bonds shall be authorized by resolution of the Governing Board of the District; may be issued either as term bonds or serial bonds, maturing in either case in not to exceed forty (40) years from their date; and shall not bear a greater rate of interest than the bonds to be refunded thereby. Such refunding bonds shall be signed by the President of the Governing Body, countersigned by the Secretary thereof, and have the seal of the District impressed thereon.

Sec. 2. Before such new refunding bonds shall be exchanged for outstanding bonds, they shall be submitted to the Attorney General for his examination; and if they have been authorized in accordance with this Act, he shall issue his certificate approving them, and the Comptroller of Public Accounts thereafter shall register them one time or in installments as original bonds are surrendered to him for cancellation.

Sec. 3. Such bonds, after receiving the certificate of the Attorney General, and having been registered in the Comptroller's Office, shall be held in every action, suit or proceeding in which their validity is or may be brought into question, prima facie valid and binding obligations.

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

In every action brought to enforce collection of such bonds, the certificate of the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of its validity, together with the coupons attached thereto. The only defense which can be offered against the validity of such bonds shall be forgery or fraud. This Article shall not be construed to give validity to any such bonds as may be issued in excess of the limit fixed by the Constitution, or contrary to its provisions. Acts 1949, 51st leg., p. 122, ch. 74.

Emergency. Effective April 9, 1949.

**Title of Act:**

An Act authorizing Junior College Districts to issue refunding bonds; prescribing the method of issuing such bonds; requir-

ing approval thereof by the Attorney General and prescribing the effect thereof; enacting other provisions relating to the subject; and declaring an emergency. Acts 1949, 51st Leg., p. 122, ch. 74.

**Art. 2815h—6. Validation of enlarged boundaries**

Section 1. The action of all county boards of trustees in adding territory to any junior college district, which said college district was originally created with the same boundary lines as an independent school district and to which such school district territory has been added, such added territory to said college district being the same that was added to said school district and making the boundary lines of such districts identical, are hereby in all things validated, and such enlarged districts are hereby in all things validated. All elections for bonds, the levy and collection of taxes, and/or debt assumption, ordered by the governing body of such college district following such addition of territory and held over the enlarged district, in which elections a majority of the qualified voters having taxable property and having duly rendered the same for taxation voting therein voted in favor of the same, are hereby in all things validated, and said governing body is hereby authorized to issue such bonds and levy and collect such taxes, and the indebtedness so assumed is declared to be the indebtedness of such enlarged district.

Sec. 2. This Act shall not apply to any district the organization or creation of which is now involved in litigation, nor shall this Act apply to or affect any litigation now pending which involves the validity of such district or the validity of any bonds issued or undertaken to be issued by it. Acts 1949, 51st Leg., p. 623, ch. 331.

Emergency. Effective June 6, 1949.

**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 main-

tenance of Public Junior Colleges. 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 and administrative forces of the several institutions.

It shall be mandatory that each institution participating in the funds herein provided shall collect from each full-time student enrolled, matriculation and other session fees not less than the amounts provided for by law and by other State-supported institutions of higher learning for full-time students and shall collect proportionate amounts for students taking less than a full-time student load.

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 1949, 51st Leg., p. 612, ch. 327, § 1.

Effective 90 days after July 6, date of adjournment.

Section 3 of the act of 1949, 51st Leg., p. 612, ch. 327, as amended by act of 1950, 51st Leg., 1st C.S., p. 86, ch. 23, made an appropriation for the two following fiscal years, to be apportioned among the junior colleges named, 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 One Hundred Seventy-five (\$175.00) Dollars per capita for each full-time student per scholastic year of two long term semesters or equivalent thereof if the scholastic year is divided into more than two (2) long session terms, said per capita amount having been determined on the basis of three-fourths ( $\frac{3}{4}$ ) of the recommended amount for other and wholly State-supported institutions of higher learning; 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 or auxiliaries thereof and any other students whose tuition and fee expenses are paid entirely by the United States Government; 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."

Effective 90 days after March 1, 1950, date of adjournment.

Section 4 provided that any amount appropriated and not used during the fiscal year beginning September 1, 1949, and ending August 31, 1950, is herein placed to the

credit of said Public Junior Colleges to be used as other appropriations during the next fiscal year. Any amount appropriated and not used during the fiscal year beginning September 1, 1950, and ending August 31, 1951, shall revert to the General Revenue Fund of the State of Texas.

Acts 1949, 51st Leg., p. 697, ch. 364, amended the Acts 1947, 50th Leg., p. 685, ch. 346, by adding section 3a, making an appropriation for the fiscal year ending August 31, 1949, to Panola County Junior College at Carthage, Texas.

Acts 1943, 48th Leg., p. 257, ch. 157, Acts 1945, 49th Leg., p. 319, ch. 254, and Acts 1947, 50th Leg., p. 685, ch. 346, 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 cost 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 Nine Hundred and Twenty-five Thousand Dollars (\$925,000) for each of the fiscal years beginning September 1, 1947, and September 1, 1948, 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 1947, 50th Leg., p. 685, ch. 346.

**Art. 2815k. Management of junior colleges and universities in independent school districts containing city of 380,000 or more; Board of Regents**

**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 beimpleaded, or intervene in any court of competent jurisdiction in any suit where the interest 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 the physical properties of any land and/or buildings belonging to any such junior colleges and/or universities, except that any such Board of Regents may pledge the income therefrom as herein provided. Any Board of Regents is hereby authorized to borrow money and to issue revenue bonds for the purpose of constructing, improving, enlarging, extending, furnishing and equipping dormitories, kitchens, dining halls, cafeterias and other eating places, student activity buildings, gymnasias, athletic buildings, stadia and such other buildings and facilities as may be needed for the good of the institution and the moral welfare and social conduct of the students of such institutions when the total cost, type of construction, capacity of such buildings as well as the other plan and specifications, have been approved by such Board of Regents. Any such Board of Regents is hereby authorized and empowered to pledge all or any part of the revenues of such dormitories, kitchens, dining halls, cafeterias and other eating places, student activity buildings and stadia and such other buildings and facilities as may be needed for the good of the institution and the moral welfare and social conduct of the students of such institutions to be acquired by use of the proceeds of the sale of such bonds and to enter into contract with relation thereto and, in addition, to pledge and encumber the income and revenue from any other income producing properties including but not limited to any oil, gas and other minerals or interest therein, any student activity buildings, book stores, restaurants, cafes, cafeterias, dining halls, snack bars, kitchens, athletic buildings and facilities, including the income from athletic events and games in which said institutions participate away from said institution, as well as at the said institution, and any other properties of whatsoever nature owned by any such institutions. The revenues and income from existing buildings and other facilities may be pledged and encumbered to the payment of revenue bond issues for the purpose of constructing, improving, enlarging, repairing, extending, equipping and furnishing any other building or facilities for which revenue bonds may be issued under the terms of this Act.

Any such Board of Regents shall be empowered and authorized to enter into contracts in connection with the issuance of revenue bonds pledging and encumbering all or any part of any of the foregoing properties and facilities for the purpose of providing funds to construct, im-



prove, enlarge, extend, repair, equip and furnish any other properties and facilities which, in the opinion of such Board of Regents, will be beneficial to such institution and the students thereof; and further, any such Board of Regents is empowered and authorized to enter into agreement relating to the maintenance of the maximum percentage of occupancy and use by students of such institution of the properties and facilities whose revenues are pledged to the payment of such bonds. It is expressly provided that no such revenue bonds shall ever be a debt of any such Board of Regents or school district but shall be solely a charge upon the income tolls, fees, rent and charges so encumbered and pledged.

Nothing herein shall be construed to authorize the pledge or encumbrance of tuition or matriculation fees but nothing herein shall be construed to prohibit the use of any surplus income from whatsoever source for the payment of principal and interest on any such revenue bonds in the event the pledged revenue and income should prove insufficient to pay such principals and interest when due.

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 employee 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. As amended Acts 1949, 51st Leg., p. 1201, ch. 610, § 1.

Emergency. Effective July 25, 1949.

#### **Public character of junior colleges and their property**

Sec. 8(1). The Junior Colleges and/or Universities described in the foregoing Sections 1 through 8 are declared to be public corporations of the State of Texas, and all property now or hereafter owned or acquired by them or any of them, whether as a result of gift, purchase or otherwise, and whether held by way of endowment for income purposes or otherwise, is declared to be public property of this State, subject how-

ever, to the terms of the Sections aforesaid and to the powers of said corporations and their respective Boards of Regents with regard to the management and control of said corporations and the property and affairs thereof and without prejudice to the right of said corporations as corporations to hold the title to the properties aforesaid or to their rights to accept donations, whether by gift or will, for specific purposes or with restrictions as the donor or testator may provide, so long as said purposes or restrictions be not contrary to the public policy of this State or inconsistent with the character of said corporations as public institutions of this State; said limited gifts, legacies or bequests to be nevertheless considered as public property of this State, like all other property owned by said Junior Colleges and/or Universities. Added Acts 1950, 51st Leg., 1st C.S., p. 111, ch. 42, § 1.

Emergency. Effective March 17, 1950.

## **Art. 2815m—1. Trustees of joint county junior college districts**

### **Election of first board of trustees**

Section 1. In Joint County Junior College Districts, the election of the first Board of Trustees shall be ordered by the Commissioners Court in each of the counties respectively, such election to be held on the same date in each of said counties. The Commissioners Court in each county shall order the election, determine the number and location of polling places, appoint election judges for each, receive and canvass the returns, and declare the results in its respective county. One of said Courts shall, by mutual consent, be designated to receive the totals from all of the counties, declare the final results, issue the certificates of election, and administer the oath of office.

The order of election shall be made at least twenty (20) days prior to the date of such election and shall be posted in at least three (3) places in the district not less than ten (10) days prior to the date of said election. Such notices shall show the date of the election, the number of places to be filled, the location of all polling places, and the names of the election officials.

### **Subsequent elections**

Sec. 2. In all subsequent elections for electing trustees for Joint County Junior College Districts, the Board of Trustees of such district shall order the elections, determine the number and location of polling places, appoint election judges for each, receive and canvass the returns, declare the results, and issue certificates of election. The president or chairman of the Board shall administer the oath of office to the newly elected trustees.

The order of election shall be made at least twenty (20) days prior to the date of such election and shall be posted in at least three (3) places in the district not less than ten (10) days prior to the date of said election. Such notices shall show the date of the election, the number of places to be filled, the location of all polling places, and the names of the election officials.

### **Combining first election with election to create district**

Sec. 3. Election for the purposes of electing the first Board of Trustees of any Joint County Junior College District may be held at the same time as the election to determine the creation of the district. In such case it shall be ordered and held by the officials authorized by law to hold the election on the proposition of the creation of the district, who shall also have the authority to canvass the returns, declare the results, and

issue certificates of election, according to the procedure set forth in Sections one and two of this Act.

**Placing names on ballot**

Sec. 4. Any person desiring a place on the ballot for election as a trustee of a Joint County Junior College District, must apply at least three (3) days prior to the issuance of the order of election for his name to be placed on such ballot. In the case of the election of the first Board of Trustees of the district, said application must be made to the Commissioners Court; in subsequent elections this application must be made to the president of the Board of Trustees of such district. Such application must be made in writing and may be presented either in person or by mail.

**Persons elected**

Sec. 5. The number of persons required to fill the places for which trustees are to be elected, who receive the highest number of votes, shall be declared elected.

**Qualifications of voters**

Sec. 6. Any resident of a Joint County Junior College District who is qualified to vote in a General Election in the State of Texas shall be qualified to vote in any election for trustees of any such Joint County Junior College District.

**Vacancies**

Sec. 7. In case of a vacancy on the Board of Trustees of a Joint County Junior College District, the remaining members of the Board shall appoint a member to serve out the unexpired term caused by such vacancy.

**Partial invalidity**

Sec. 9. If any provision of this Act shall be held by the Courts to be void or in conflict with any provision of the Constitution of this State, the fact that such provision may be held void shall in nowise affect any of the other provisions of this Act. Acts 1949, 51st Leg., p. 761, ch. 409.

Emergency. Effective June 14, 1949.

Section 8 of the Act of 1949 repealed  
all conflicting laws and parts of laws.

**Art. 2815n. Trustees of junior college districts to which other districts annexed**

**Board of trustees, how composed**

Section 1. Any Junior College District originally created out of territory then comprising an independent school district in a city which had assumed control of its school within its limits, and wherein at the time of the creation of such Junior College District the boundaries of said district were coextensive or coterminous with those of the independent district and in which Junior College District the members of the Board of Trustees were appointed by the governing body of said city and to which Junior College District there has been or may hereafter be annexed one or more common school and/or independent school districts, shall be governed, administered and controlled by a Board of Trustees, constituted and elected as hereinafter set out, whether or not such common school and/or independent districts so annexed for Junior College purposes only shall be in the county of the original Junior College District, or in adjoining counties and whether or not such common school and/or independent school districts so annexed for Junior College purposes only shall be contiguous to said original Junior College District or to districts annexed thereto for Junior College purposes only.

Said Board of Trustees shall have the powers and duties now or hereafter prescribed by law for the government of public Junior Colleges, and all powers and duties conferred upon Junior Colleges by the General Laws of this State, except such as are in conflict with this Act, shall be possessed and may be exercised by such Junior Colleges.

#### Apportionment of trustees

Sec. 2. Members of the Board of Trustees of such Junior College District to which there has been or may hereafter be annexed one or more common and/or independent school districts for Junior College purposes only as provided in Section 1 hereof, shall be elected from the original Junior College District and from the common and/or independent school districts annexed thereto for Junior College purposes only on the following basis:

The original Junior College District shall be entitled to elect one trustee for each Ten Million Dollars (\$10,000,000) of taxable, assessed valuation of property according to the last assessed valuation for Junior College purposes in said district. Each of the annexed districts shall be entitled to elect one trustee for each Ten Million Dollars (\$10,000,000) according to such last assessed valuation in said district for Junior College purposes; provided, however, if there be a district or districts annexed to said Junior College District for Junior College purposes only which has an assessed valuation for Junior College purposes according to such last assessed valuation of less than Ten Million Dollars (\$10,000,000), there shall be elected at large from such district and all other districts having such an assessed valuation of less than Ten Million Dollars (\$10,000,000) one trustee for each Ten Million Dollars (\$10,000,000) of aggregate amount of assessed valuation for Junior College purposes in all of such districts according to the last assessment therefor; provided, however, if the aggregate of such assessed valuations in all annexed districts, each of which has an assessed valuation less than Ten Million Dollars (\$10,000,000), shall not amount to as much as Ten Million Dollars (\$10,000,000), there shall, nevertheless, be elected at large one trustee from such annexed districts.

In the event the original Junior College District or annexed district or combination of annexed districts should have an assessed valuation of more than Five Million Dollars (\$5,000,000) in excess of the Ten Million Dollars (\$10,000,000) units of valuation herein provided for, then such district or combination of districts shall be entitled to elect from the area of such district or combination of districts one additional trustee.

#### Determination; call of election; voting boxes; time of election

Sec. 3. The number of trustees to be elected from such original Junior College District and from the common and/or independent school districts annexed thereto for Junior College purposes shall be determined and declared by the Board of Trustees from the official records concerning assessed valuation in said respective districts according to the last approved assessments on the first Monday in May of each year, and said Board of Trustees shall immediately thereafter order an election for the purpose of electing said Board of Trustees. Said order shall be made at least twenty (20) days prior to the date of said election. Said order shall establish a voting box or boxes in the original Junior College District and in each annexed district involved, and shall provide that said election shall be in conformity with the General Laws of the State relating to the election and qualifications of trustees for independent school districts in so far as the same are applicable. Said election

shall be held on the first Monday in June of each year, and the returns thereof shall be canvassed by the Board of Trustees and the results declared within one week after said election is held.

**Continuance of terms until successors elected**

Sec. 4. The trustees composing the Board of Trustees of any Junior College District to which the provisions hereof are effective or with respect to which the same may become effective, shall continue to hold their respective offices until their successors shall have been elected and qualified according to the provisions of this Act.

**Classes of trustees**

Sec. 5. The trustees first elected for such Junior College District, as provided by this Act after taking the oath of office, shall by lot divide themselves into three (3) classes in as nearly equal numbers as is possible. One class shall serve for one (1) year, one class shall serve two (2) years and the third class shall serve for three (3) years. If said classes are not composed of equal numbers of members, then the class, or classes containing the greater number of members shall serve the shorter term or terms. Thereafter trustees shall be elected for three (3) year terms.

**Assessed valuation on which based**

Sec. 6. In the event at the time the first election for trustees under this Act shall be held there is no assessed valuation for Junior College purposes in some or all of the annexed districts, then the valuation of the property in such annexed districts for the purpose of determining the number of trustees to which such annexed district or districts shall be entitled, shall be based upon the last assessed valuation for school purposes in said annexed district or districts.

**Costs and expenses; conduct of elections**

Sec. 7. The cost and expense of holding any election for the purpose of determining whether or not common and/or independent school districts be annexed to such original Junior College District shall be borne by the Junior College District. Elections upon the question of annexation shall be ordered and conducted, and the results canvassed and declared by the County Board of Education in which the district voting upon the annexation is situated or in case there is no County Board of Education, the same shall be conducted by the County Commissioners Court of the county in which such district voting on the question of annexation is situated.

**Partial invalidity**

Sec. 9. If any word, phrase, clause, sentence, paragraph, section or part of this bill shall be held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other provision of this Act. Acts 1949, 51st Leg., p. 207, ch. 114.

Emergency. Effective May 3, 1949.

Section 8 of the Act of 1949 repealed all conflicting laws and parts of laws.

**Art. 2815o. Boards of Regents of junior colleges**

**Independent districts may vest control in separate board**

Section 1. From and after effective date of this Act, the Board of Trustees, or the Board of Education, as the case may be, of any inde-

pendent school district created either under the General Laws of this State, or by a Special Act of the Legislature, may divest itself of the management, control and operation of any junior college maintained and operated by such a Board of Trustees, or Board of Education, and said control shall be vested in a separate board to be known as the Board of Regents of such junior college; provided that such a Board of Regents shall be chosen at an election which shall be called by the is located.

#### **Membership of board**

Sec. 2. It is further provided that such Board of Regents shall be composed of nine (9) members to be elected for terms of three (3) years each, and that any individual who meets the eligibility requirements for election to the County Board of Trustees of the county in which such junior college is located shall be eligible for election to the Board of Regents.

#### **Election of board**

Sec. 3. (a) After this Act becomes effective, the County Judge of the county in which independent school district is located, when requested to do so by official resolution of the Board of Trustees, shall call within ninety (90) days an election for the purpose of electing a Board of Regents as set forth in this Act.

(b) As an alternate method, the Board of Trustees, or the Board of Education, of such independent school district may be divested of its authority as the governing board of such junior college by a petition of ten per cent (10%) of the qualified electors of the independent school district which shall be presented to the County Judge who shall then call an election within ninety (90) days after said petition is presented for the purpose of electing a separate Board of Regents, as set forth in this Act.

(c) All board members chosen subsequent to the initiation of this Act shall be elected under the statutes governing the election of school trustees in independent school districts.

#### **Terms of office**

Sec. 4. The members of the first Board of Regents chosen pursuant to the terms of this Act shall determine by lot the terms which they shall respectively serve. Three (3) members shall be chosen to serve until the first Saturday in April of the succeeding year, three (3) until the first Saturday in April of the next succeeding year, and three (3) until the first Saturday in April of the third succeeding year, or until such time, in each instance, as their successors shall qualify.

#### **Vacancies.**

Sec. 5. Within thirty (30) days after any vacancy shall occur on such Board of Regents by death or resignation of any member thereof, it shall be the duty of the remaining members, by not less than a majority vote thereof, to appoint members of such Board of Regents to fill such vacancies.

#### **Existing board to continue temporarily**

Sec. 6. It is furthermore provided that until the members of the new Board of Regents are elected, qualified, and taken office, the present Board of Trustees, or Board of Education, which is now governing the junior colleges shall continue as the official governing body of such college.

**Partial invalidity**

Sec. 8. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of the Act; and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity. Acts 1949, 51st Leg., p. 269, ch. 146.

Emergency. Effective May 10, 1949.

Section 7 of the Act of 1949 repealed all conflicting laws and parts of laws.

**Title of Act:**

An Act permitting Boards of Trustees in independent school districts having control of junior colleges to vest control in a Board of Regents of nine (9) members; providing for the election of the Board of Regents;

setting the terms of members of Board of Regents, and their eligibility for election; providing method of election; setting forth method of filling vacancies on the Board of Regents; repealing laws in conflict; providing a saving clause; and declaring an emergency. Acts 1949, 51st Leg., p. 269, ch. 146.

**Art. 2815p. Disannexation of territory**

The Board of Trustees of any Joint County Junior College District shall have the power to disannex for Junior College purposes any territory located more than fifty-five (55) miles by highway from the point of location of the Junior College, where a majority of the persons owning property in such territory desiring disannexation petition the Joint County Junior College District to be disannexed and where the Board of Trustees of such District consents to such disannexation, provided that no disannexation shall be allowed which would reduce the Junior College District scholastic population, high school population, or taxable values, below the minimum provided by General Law for such Joint County Junior College Districts; provided, further, that the Board of Trustees shall not have power to disannex territory having taxable valuation, for such lands, in the aggregate, in excess of One Hundred and Twenty Thousand Dollars (\$120,000); and provided, further, that in the event of any territory being disannexed under the terms hereof, the liabilities of the territory disannexed for outstanding obligations shall be governed by the present General Laws which are applicable to territory which is disannexed from an Independent School District. Acts 1949, 51st Leg., p. 741, ch. 399, § 1.

Emergency. Effective June 13, 1949.

**Title of Act:**

An Act providing for the disannexation of territory by Joint County Junior College

Districts under certain conditions; and declaring an emergency. Acts 1949, 51st Leg., p. 741, ch. 399.

**Art. 2815q. Dissolution and transfer of property upon creation of senior college**

Section 1. Whenever the Legislature shall create within the boundary of any union junior college district a State-supported senior college of the first rank offering at least four (4) years of college work, and whenever such union junior college district has been dissolved in the manner provided for in Article 2767, Revised Civil Statutes of Texas, 1925, as amended, which said method of dissolution of such district is hereby authorized, the trustees of such union junior college district shall transfer the corporeal properties and facilities of such union junior college district to such State-supported senior college, and such trustees, after such dissolution and transfer of properties of such district, shall not further maintain a junior college and shall function only for the purpose of carrying out the provisions of this Act and shall have no authority to create any additional indebtedness against such district, and when

the bonded indebtedness of such district has been fully paid, such union junior college district shall cease to exist; provided that in the order calling such election and in the notice thereof, the authorities calling such election shall designate the date when such district shall be dissolved and such transfer shall be made, which date shall be within two (2) years from the date of the election, and on or prior to said date.

Sec. 2. When any union junior college district has been dissolved and its properties transferred as provided in Section 1 hereof, or in any other lawful manner, having at the time of such dissolution outstanding bonds or other indebtedness enforceable either at law or in equity, then the County Commissioners Court, for the purpose of paying such bonds, or other indebtedness, shall have power and be authorized to annually levy and collect ad valorem taxes sufficient only to pay the interest and create a sinking fund to retire the bonded indebtedness of such district, and the expense of collecting such taxes and paying such bonded indebtedness, and for no other purpose; provided such tax shall not exceed the rate voted by such district for junior college purposes; said County Commissioners Court shall have power to bring and defend litigation in the name of said union junior college district.

If any section, sentence, clause or phrase of this act shall be held to be invalid for any reason, it is hereby provided that such invalidity shall not impair or affect the remaining portions of this Act, and the Legislature would have enacted the same regardless of any such invalidity. Acts 1949, 51st Leg., p. 922, ch. 498.

Emergency. Effective June 29, 1949.

Section 3 of the Act of 1949 repealed all conflicting laws and parts of laws.

### **Art. 2815r. Dormitories, cottages and stadiums; museums, libraries, and other buildings**

#### **Authority to erect and equip dormitories cottages or stadiums; bonds or notes**

Section 1. The Boards of Trustees or Boards of Regents of the several public Junior Colleges are hereby authorized and empowered to erect and equip, and to contract with any person, firm or corporation, for the erection, completion and equipping of dormitories, cottages or stadiums, to be erected either on the campus or real estate then owned by said colleges, or on other real estate purchased or leased for the purpose, and the said Boards of Trustees, or Boards of Regents, are hereby expressly authorized to purchase, or lease, additional real estate for such purposes, provided said Institutions have sufficient surplus from local funds, but not exceeding twenty-five per cent (25%) of the total for any fiscal year, to pay cash for any purchase of land; or the purchase of land is made from funds derived from the sale of revenue bonds or notes. The bonds or notes authorized herein are to be paid solely from the revenues of the dormitories, cottages and stadiums, and shall never be charged against the State nor any appropriation made by the State nor shall any portion of said appropriation ever be used for the payment of said notes or bonds; nor shall any local or institutional funds in excess of twenty-five per cent (25%) of the total for any calendar year ever be used for the payment of said notes or bonds. It being the intention of the Legislature to authorize the payment of said notes and bonds solely from revenues derived from the improvements authorized herein and an emergency to be supplemented from local funds not exceeding twenty-five per cent (25%) for any fiscal year.



**Joint construction of museums, library and other buildings**

Sec. 2. The Boards aforesaid are hereby authorized and empowered to enter into contracts with municipalities or school districts for the joint construction of museums, library buildings, or such other buildings as may be deemed necessary.

**Obligations; pledge of revenues**

Sec. 3. In payment for the erection, completion and equipping of such dormitories, cottages and stadiums, and the purchase of the necessary sites thereto, the Boards aforesaid are further authorized and empowered to issue their obligations in such sum or sums and upon such terms and conditions as to said directors may seem advisable, and as security for the payment thereof to pledge the net rents, fees, revenues and incomes from the improvements to be erected hereunder. Any bonds or notes issued hereunder shall bear interest at the rate not to exceed six per cent (6%) per annum and shall finally mature not more than twenty (20) years from date.

**Additions and additional buildings**

Sec. 4. The aforesaid Boards are hereby authorized and empowered to pledge the unused part of any revenues from self-liquidating buildings for the construction of additions to said buildings or the construction of any other buildings and the purchase of the necessary sites thereto such Boards may deem necessary, provided that any subsequent issue of revenue bonds or notes shall be a second lien on said net revenues, rents, fees and incomes and shall be inferior to any outstanding revenues, bonds or notes which are secured by a pledge of said net revenues, rents, fees and incomes.

**Rates, fees and charges**

Sec. 5. The Boards aforesaid are hereby authorized and directed to establish and maintain such schedule of rates, fees and charges for the use of the facilities afforded by its dormitories, cottages and stadiums, and the revenue from the athletic fields and stadiums, which rates, fees and charges shall be in an amount at least sufficient to pay the operating and maintenance charges thereof and to pay the principal and interest representing the indebtedness against said revenues, rents, fees and incomes.

**Indebtedness not to be incurred**

Sec. 6. In payment for the erection, completion and equipping of such dormitories, cottages and stadiums, and the purchase of the necessary sites thereto, the Boards aforesaid shall not in any manner nor to any extent incur indebtedness against themselves or the State of Texas, and the obligation or obligations authorized by this Act shall never be a personal obligation of the colleges above-named, or the State of Texas; but such obligations shall be discharged solely from the revenues herein authorized to be pledged for the purpose.

**Approval and registration of bonds and notes**

Sec. 7. All revenue bonds shall be examined and approved by the Attorney General of the State of Texas; and the State Auditor shall approve such revenue bonds or revenue notes after an examination of revenues which shows a reasonable prospect of adequate rents, income, fees or charges to pay principal and interest, and all approved bonds shall be registered in the office of the Comptroller of Public Accounts of the State of Texas.

**Powers of boards**

Sec. 8. The aforesaid Boards are hereby empowered to do any and all things necessary and convenient to carry out the purpose and intent of this Law.

**Legislative appropriations not intended**

Sec. 9. It is the intention of the Legislature that the State of Texas shall never be called upon to supplement, by emergency or general appropriation, any of the local funds of any Institution which takes advantage of the provisions of this Act. The governing Boards of such Institutions are directed not to make any appropriation from the local funds of such Institutions when in so doing it will necessitate the Legislature supplementing such local funds. It is further provided that the Legislature shall never make an appropriation for the purpose of equipping (including utility connections) or maintaining any building erected under the provisions of this Act. Acts 1949, 51st Leg., p. 927, ch. 502.

Emergency. Effective June 29, 1949.

**Art. 2815s. Extension of boundaries of junior college district coextensive with independent district**

Section 1. This Act shall apply to any junior college district created with the same boundary lines as an independent school district, the board of trustees of the independent school district being governing board of the junior college district. Whenever the boundaries of any such independent school district are extended by consolidation, attachment of territory thereto, or otherwise, the boundaries of the junior college district shall be automatically likewise extended so that the boundary lines of the two (2) districts shall remain identical.

Sec. 2. Where the boundaries of any such independent school district have been extended prior to the effective date of this Act, the added territory may be brought into the junior college district in the following manner: A petition requesting that such territory be added to the junior college district signed by a majority of the qualified property taxpaying voters of such territory may be presented to the governing board of the junior college district. Such board shall determine whether such petition is signed by said majority, based upon the latest approved tax rolls of the independent school district, and if such determination is in the affirmative and if the board shall also determine that facilities of the junior college district may be extended to adequately cover the scholastics of the added territory, then said board shall pass an order admitting such territory and said order shall describe the junior college district as extended by metes and bounds. Thereupon, said territory shall be a part of the junior college district for all intents and purposes. A copy of said order shall be filed in the deeds records of the county and a copy shall be filed with the county superintendent of public instruction.

Sec. 3. Whenever the boundary lines of a junior college district have been extended under the terms of this Act, then within thirty (30) days after such extension the governing board of the junior college district shall, without the prerequisite of the filing of any petition, order an election to be held in said district as enlarged or extended on the question of the levy and collection of taxes for the support and maintenance of such junior college district as extended or enlarged under the provisions of Chapter 70, Acts, 1947, Fiftieth Legislature.<sup>1</sup> If said junior college district prior to enlargement issued bonds, any of which bonds are outstanding at the time of said enlargement, then the question of the assumption

of said bonded indebtedness by said district as enlarged and the levy and collection of taxes in payment thereof shall also be submitted at the same election. The election for the levy and collection of said taxes and the assumption of said bonds shall be in accordance with the provisions of the General Law relative to independent school districts, provided, however, that no petition for the same shall be necessary.

Sec. 4. Any junior college district so extended or enlarged may subsequently vote bonds and taxes in accordance with the provisions of Chapter 70, Acts, 1947, Fiftieth Legislature. Acts 1950, 51st Leg., 1st C.S., p. 109, ch. 41.

<sup>1</sup> Arts. 2815h, 2815h—3b.

Emergency. Effective March 17, 1950.

**Title of Act:**

An Act providing for the extension of boundaries of certain junior college districts; providing for elections for the levy and collection of taxes and the assumption

of bonded indebtedness by such enlarged districts; providing for the issuance of bonds and the levy and collection of taxes; and declaring an emergency. Acts 1950, 51st Leg., 1st C.S., p. 109, ch. 41.

**Art. 2821, 2778. Compensation**

For their services, the census trustees shall receive ten cents (10¢) per capita of the children of scholastic age taken by them in county districts and three cents (3¢) per capita in towns of twenty-five hundred (2500) and not more than five thousand (5,000) inhabitants, and two cents (2¢) per capita in cities of more than five thousand (5,000) inhabitants. The county superintendent shall receive one cent (1¢) per capita of the scholastic population reported by him. These amounts shall not be paid until the census of the county is accepted by the State Superintendent, and shall be forfeited as follows: The trustee's compensation, if his work is rejected by the county superintendent and the census of his district ordered retaken; and both the county superintendent's and trustee's compensation, if the census of the county is rejected and ordered by the State Superintendent and the State Board to be retaken. As amended Acts 1949, 51st Leg., p. 716, ch. 379, § 1.

Emergency. Effective June 13, 1949.

**CHAPTER SIXTEEN—FREE TEXTBOOKS**

**Arts. 2839—2842**

State Textbook Committee, creation, duties, etc., see art. 2654—4.

**Art. 2843. Uniform system**

The State Board of Education Act<sup>1</sup> shall select and adopt a multiple list of textbooks for the elementary grades of the public free schools of Texas, said multiple list to consist of not fewer than three (3) nor more than five (5) textbooks on the following subjects: spelling, reading (basal and supplementary), English language and grammar, geography, arithmetic, physiology-hygiene, civil government, driver education and safety, vocal music, elementary science, history of the United States (in which the construction placed on the Federal Constitution by the fathers of the Confederacy shall be fairly represented), history of Texas, agriculture, a system of writing books, a system of drawing books, and may also, if deemed necessary, adopt a geography of Texas and a civil government of Texas; provided that none of said books shall contain anything of a partisan or sectarian character, and that nothing in this Act shall be construed to prevent the teaching of German, Bohemian, Spanish, French, Latin or Greek in any of the public schools, providing

that textbooks on additional subjects may be supplied when such subjects have been approved for elementary schools by the State Department of Education.

Said State Board of Education shall also adopt a multiple list of books for use in the high schools of the State, said multiple list including not fewer than three (3) nor more than five (5) textbooks on the following subjects: algebra, plane geometry, solid geometry, general science, biology, physics, chemistry, a one-year world history, American history, Latin, Spanish, homemaking, physical geography, driver education and safety, vocal music, English composition, literature, (including American literature and English literature), shop courses, physiology, the German, Czech, and French languages, agriculture, civil government, commercial arithmetic, bookkeeping, typewriting, and shorthand, provided as many as ten thousand (10,000) children in the public schools of Texas are enrolled in each of the foregoing high school subjects. Free textbooks shall be provided for all other courses which have been accredited by the State Accrediting Committee and for which as many as ten thousand (10,000) pupils are enrolled according to reports from high schools to the Text-book Division of the State Department of Education which shall be taken annually at the close of each school year.

In each subject of the elementary and high school grades, one or more of the several textbooks of each multiple list adopted may be selected by local school officials; but when such is or are selected from the multiple lists, they shall be continued in use in that school system for the entire period of the adoption or for a minimum period of not less than five (5) years, providing that school officials for each separate independent district and each system of county schools or other schools subject to supervision by county boards of education shall select the same book or books for all of its schools. Supplementary readers for pre-primer, primer, first, second, and third grades shall be distributed on a quota of not more than three hundred (300%) per cent of the enrollment for each of the grades to which the book is assigned. Supplementary readers for grades four (4) through eight (8) shall be distributed on a quota basis not in excess of two hundred (200%) per cent of the grade enrollment to which the books are assigned. All other books shall be supplied on the basis of one book for each pupil enrolled in the subject for which the book is adopted and not to exceed the total enrollment for the subject plus the teachers' copies.

Specific rules as to the manner of selection for all books on the multiple lists provided for in this Act shall be made by the State Board of Education.

The State Board of Education, as herein provided for, shall adopt textbooks in accordance with the provisions of this Act for every public free school in the State and no public free school in the State shall use any textbook unless same has been previously adopted and approved by this Board, and the Board shall prescribe rules under which all textbooks adopted and approved shall be introduced or used by or in the public schools of the State.

In the event as many as three suitable textbooks are not offered for adoption on any one subject, the Board may select fewer than three (3) textbooks.

Existing contracts shall not be affected by any adoptions made under this Act. As amended Acts 1949, 51st Leg., p. 871, ch. 470, § 1.

<sup>1</sup> So in enrolled bill. Word "Act" probably should be omitted.

Effective 90 days after July 6, 1949, date of adjournment.

Sections 2 and 3 of the amendatory act of 1949, read as follows: "Sec. 2. All laws and parts of laws in conflict herewith, and specifically Articles 2844 and 2844a, are hereby repealed.

"Sec. 3. In the event any sentence, paragraph, section, or other parts of this Act shall be held unconstitutional or void, it is hereby declared to be the legislative intent that all other parts of this Act shall

notwithstanding such holding have full force and effect according to their purpose and intent."

State Textbook Committee, creation, duties, etc., see art. 2654—4.

#### Art. 2843a. Text books on reading of music

State Textbook Committee, creation, duties, etc., see art. 2654—4.

#### Arts. 2844, 2844a. Repealed. Acts 1949, 51st Leg., p. 871, ch. 470, § 2, eff. 90 days after July 6, 1949, date of adjournment

State Textbook Committee, creation, duties, etc., see art. 2654—4.

#### Arts. 2845–2874.

State Textbook Committee, creation, duties, etc., see art. 2654—4.

#### Arts. 2875–2876j.

State Textbook Committee, creation, duties, etc., see art. 2654—4.

### CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

Art.

2908b. Exclusion of persons advocating overthrow of government or adherence to foreign government [New].

Art.

2919c. Airport; West Texas College and Texas Agricultural College [New].

#### Art. 2908b. Exclusion of persons advocating overthrow of government or adherence to foreign government

##### Oath or affirmation on registration

Section 1. No person owing allegiance to the United States hereafter shall be permitted to register for attendance in or be employed by any State-supported college or university unless and until he shall file with the registrar or president thereof his oath or affirmation reciting the following:

"I swear or affirm that I believe in and approve the Constitution of the United States and the principles of government therein contained, and will not in any manner aid or assist in any effort or movement to subvert or destroy the government of the United States or of any State or of any political subdivision thereof by force, violence, or any other unlawful means. In the event of war with any foreign nation, I will not support or adhere to the government of such foreign nation.

"I swear or affirm that I am not and have not during the past two (2) years been a member of or affiliated with any society or group of persons which teaches or advocates that the government of the United States or of any State or of any political subdivision thereof should be overthrown or destroyed by force, violence, or any other unlawful means, or the adherence to the government of any foreign nation in the event of war between the United States and such foreign nation."

**Execution each time person registers**

Sec. 2. The foregoing affidavit or affirmation shall be executed by every person each time such person seeks to register for attendance in any State-supported college or university after the date this Act becomes effective.

**Affidavit or affirmation upon employment**

Sec. 3. The foregoing affidavit or affirmation shall also be executed by every person before any contract of employment between such person and a State-supported college or university is signed or renewed after the date this Act becomes effective.

**Persons who may not be enrolled or employed**

Sec. 4. No person hereafter shall be enrolled or re-enrolled in or be employed or re-employed by any State-supported college or university, nor shall any person presently employed by such college or university be continued in such employment, who:

(a) By word of mouth or writing knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or of any State or of any political subdivision thereof, by force, violence, or any other unlawful means, or the adherence to the government of any foreign nation in the event of war between the United States and such foreign government; or

(b) Prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating, advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force, violence, or any other unlawful means, or the adherence to the government of any foreign nation in the event of war between the United States and such foreign government; or

(c) Organizes or helps or attempts to organize, or becomes a member of, or affiliates with any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government by force, violence, or any other unlawful means, or the adherence to the government of any foreign nation in the event of war between the United States and such foreign government.

**Expulsion of students guilty of prohibited acts**

Sec. 5. Any student found guilty of committing any act described in Section 4, after having signed the affidavit or affirmation set forth in Section 1, upon and after a full hearing, pursuant to due notice hereinafter provided, by the president of the college or university, or by any other college or university official designated and authorized by said president to hold such a hearing and a review of the record by the president, shall be expelled from said college or university.

**Dismissal of employees guilty of prohibited acts**

Sec. 6. Any employee found guilty of committing any act described in Section 4 upon and after a full hearing, pursuant to due notice hereinafter provided, by the governing board of the college or university, or by a committee of the governing board designated and authorized by said board to hold such a hearing and a review of the record by said board, shall be dismissed from such employment.

**Statement of charges; notice and hearing**

Sec. 7. No person shall be expelled or dismissed unless he is served in person or by registered mail with a written statement specifying the charges and naming a date and place at which such person may appear and answer such charges. The notice may be served, except when registered mail is used, by any person designated by the president of the institution. The date for the hearing shall not be less than ten (10) nor more than twenty (20) days after service.

The issues shall be heard at the time and place set, and the hearing shall be public. All parties may be represented by counsel and shall have the right to call, examine, and cross-examine witnesses, and it shall be the duty of the party or a member of the body conducting such hearing to swear any and all witnesses called to testify. A stenographic recorder shall be provided for by the party or body calling the hearing.

**Appeal**

Sec. 8. Any student or employee expelled or dismissed under the authority of this Act shall be entitled to appeal within thirty (30) days of such expulsion or dismissal to a district court in Travis County, Texas. In any such appeal the written transcript of evidence adduced before the president or person designated by him or the governing board or committee thereof shall be admissible in evidence for all purposes. Acts 1949, 51st Leg., p. 1368, ch. 621.

Emergency. Effective July 26, 1949.

**Title of Act:**

An Act to regulate and provide safeguards in the employment and admission of persons in State-supported universities and colleges; to provide for an oath; to pro-

vide for the expulsion or dismissal of certain students and employees under certain conditions; providing for appeal; and declaring an emergency. Acts 1949, 51st Leg., p. 1368, ch. 621.

**Art. 2919c. Airport; West Texas College and Texas Agricultural College**

West Texas State College and the Texas Agricultural and Mechanical College are hereby authorized to own and operate an airport and are authorized to accept Federal aid and money for said purposes, and are authorized to enter into sponsor's assurance agreements with the Federal Government, and may operate such airport separately or in co-operation with a city, county, the State or Federal Government, with the approval of the governing bodies of such institutions, but without any expense to or liability against the State of Texas in any manner concerning the same. Acts 1949, 51st Leg., p. 701, ch. 367, § 1.

Emergency. Effective June 13, 1949.

**Title of Act:**

An Act to authorize West Texas State College and the Texas Agricultural and Mechanical College to own and operate an airport, and to accept Federal aid and money for said purposes, and enter into

sponsor's assurance agreements with the Federal Government, and operate airport separately or in co-operation with a city, county, State or Federal Government, without expense to or liability against the State; and declaring an emergency. Acts 1949, 51st Leg., p. 701, ch. 367.

**CHAPTER NINETEEN A—RURAL HIGH SCHOOLS**

Art.

29221(4). Incorporation as independent district [New].

**Art. 2922a. Authority to establish**

Consolidation of rural high school districts, see art. 2815—2.

**Art. 2922f. Elementary schools—how abolished**

The county board of school trustees shall not have the authority to abolish or consolidate any elementary school district already established except upon the vote of a majority of the qualified electors residing in such elementary district; provided, however, that when any elementary school district fails to have an average daily attendance the preceding scholastic year in the school or schools within said district of at least twenty pupils, it may be discontinued by the board of trustees of the rural high school district and said district may be abolished by the county board of school trustees and consolidated by said county board with another contiguous elementary school district, and said consolidation shall be for all purposes, and said consolidated district shall be considered as one elementary school district, and said board of trustees of the rural high school district may move or otherwise dispose of all buildings and other property of said discontinued and abolished district as it may in its discretion see fit; provided that if there is more than one white or one colored school in such elementary school district the board of trustees of the said rural high school districts or an independent district, as the case may be, may consolidate such white or colored schools of the elementary district; and provided that the board of trustees of a rural high school district may transfer the pupils of one elementary district to another within the rural high school district when the transfer is made from an elementary district of lower classification to one of higher classification; and provided further that the board of trustees of a rural high school district may transfer pupils from an elementary district to any other elementary district within the rural high school district upon application of the parents or guardian of the said pupils.

Whenever one or more common school districts are annexed to a common school district or to an independent district under the provisions of Section I, such common or independent district shall maintain elementary schools of such classification as the county board may designate in each district so annexed, for the same length of term provided for the schools of the said common school district or independent district. Provided such schools may be discontinued by the local board of trustees when the average daily attendance of any such schools for the preceding year is less than twenty. As amended Acts 1949, 51st Leg., p. 86, ch. 52, § 1.

Emergency. Effective March 24, 1949.  
Section 2 of the amendatory act of 1949, read as follows: "Any laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict. If any clause, sentence, paragraph, or

section of this Act is declared invalid or unconstitutional by any Court of competent jurisdiction, the remainder of this Act shall nevertheless remain in full force and effect."

**Art. 2922(3). Trustees in certain rural high school and consolidated independent school districts**

Sec. 5. When such rural high school districts and consolidated independent school districts to which this Act is applicable have been in existence for two (2) years or longer, and additional territory is then added to such districts by annexation, the provisions of this Act shall continue to apply to such districts, although they may then contain territory originally comprising more than twelve (12) original school districts; provided, however, that it shall be the duty of the Board of County School Trustees to divide the territory of such districts, exclusive of the territory formerly comprising the two (2) independent school districts having more than two hundred and fifty (250) scholastic population, as



provided for in Section 3 of this Act and to include the territory added by annexation within one (1) or more of the three (3) areas provided for in said Section 3. Added Acts 1950, 51st Leg., 1st C.S., p. 73, ch. 15, § 1.  
Emergency. Effective March 13, 1950.

#### Art. 2922l(4). Incorporation as independent district

##### **Incorporation of rural high school districts**

Section 1. Upon a petition properly signed by twenty (20), or a majority, of the legally qualified property taxpaying voters residing in any rural high school district in which there is maintained a first-class high school of twelve (12) grades, offering sixteen (16) or more credits, the county judge of said county shall issue an order calling for an election to be held not less than twenty (20) nor more than thirty (30) days from the date of the filing of said petition, for the purpose of converting the rural high school district into an independent school district for school purposes. After said election is held, the Commissioners Court shall canvass the returns thereof as in other similar elections, and if the majority of the votes cast favor the change from a rural high school district to an independent school district, then said county judge shall so find and enter his order to that effect and incorporating said independent school district upon the minutes of the Commissioners Court and cause the county clerk to record a certified copy of such order in the deed records of the county. Thereupon, such "independent school district" shall thereafter be regarded as duly incorporated for free school purposes only and shall have and is hereby vested with all the rights, powers and privileges conferred and imposed by the General Laws of this State upon independent school districts.

##### **Board of Trustees**

Sec. 2. Whenever any rural high school district is incorporated under this Act, the Board of Trustees of the rural high school district shall maintain their status as Trustees of the newly incorporated independent school district and shall continue to serve until their respective terms of office expire.

##### **Property rights of district**

Sec. 3. The titles and rights to all property owned, held, set apart, or in any way dedicated to the use of the public schools of the elementary school districts comprising the rural high school district for school purposes only, shall be and are hereby vested in the Board of Trustees of such independent school district, after incorporating under this Act and shall be managed and controlled by the Board of Trustees, as is now or may hereafter be provided by law.

##### **District assumption of indebtedness**

Sec. 4. All bonds issued by and outstanding against any such rural high school district, as a school district, and all obligations, contracts and indebtedness existing against the rural high school district, shall become the obligations and debts of the independent school district at the time of its incorporation, and the said independent school district, after same has been incorporated, shall be held to have assumed the discharge of all such obligations, contracts and indebtedness, and the same shall be enforceable and collectible from, paid off and discharged by, the said independent school district, as if originally created by it as an independent school district; and it shall not be necessary to call an election within and for such district for the purpose of assuming such bonds and other indebtedness.

**Repealing clause**

Sec. 5. 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 Act shall, nevertheless, remain in full force and effect. Acts 1949, 51st Leg., p. 1186, ch. 599.

Emergency. Effective July 25, 1949.

**CHAPTER TWENTY—TEACHERS' RETIREMENT****Art. 2922—1. Teachers' Retirement System****Definitions**

Section 1. The following words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Retirement System" shall mean the Teacher Retirement System of Texas as defined in Section 2 of this Act.

(2) "Public school" shall mean any educational organization supported wholly or partly by the State under the authority and supervision of a legally constituted board or agency having authority and responsibility for any function of public education.

(3) "Teacher" shall mean a person employed on a full-time, regular salary basis by boards of common school districts, boards of independent school districts, county school boards, State Board of Trustees, State Board of Education and State Department of Education, boards of regents of colleges and universities, and any other legally constituted board or agency of an educational institution or organization supported wholly or partly by the State. In all cases of doubt, the State Board of Trustees, hereinafter defined, shall determine whether a person is a teacher as defined in this Act. A teacher shall mean a person rendering service to organized public education in professional and business administration and supervision and in instruction, in public schools as defined in Subsection (2) of this Section.

(3a) "Auxiliary employee" shall mean a person, other than a "teacher" as hereinabove defined, employed on a full-time regular salary basis by a common school district, independent school district, county school board, the Teacher Retirement System of Texas, State Board of Education, State Department of Education, boards of regents of colleges and universities, and any other legally constituted board or agency of an educational institution or organization supported wholly or partly by the State. Provided, however, that no person who is employed by the State Board of Control in eleemosynary institutions under its control, shall be considered to be an "auxiliary employee" within the contemplation of this subsection. In all cases of doubt, the State Board of Trustees shall determine whether a person is an auxiliary employee as defined by this Act.

(4) "Taught" shall mean all regular services rendered by teachers and by auxiliary employees, contributing directly or indirectly to instruction offered by and in the public schools of this State.

(5) "Employer" shall mean the State of Texas and any of its designated agents or agencies with responsibility and authority for public education, such as the common and independent school district boards,

the boards of regents of State colleges and universities, the county school boards, or any other agency of and within the State by which a person may be employed for service in public education.

(6) "Member" shall mean any teacher or auxiliary employee included in the membership of the System as provided in Section 3 of this Act.

(7) "State Board of Trustees" shall mean the Board provided for in Section 6 of this Act to administer the Retirement System.

(8) "Service" shall mean service as a teacher and as an auxiliary employee in the public schools of the State of Texas.

(9) (a) As to any person who became a member of the Retirement System or who at any time on or before August 31, 1949 was eligible for membership in the Retirement System, the term "Prior Service" as used in this Act shall mean service by such person as a teacher and as an auxiliary employee rendered prior to September 1, 1937.

(b) As to any person who shall for the first time become eligible for membership in the Retirement System on or after September 1, 1949, the term "Prior Service" as used in this Act shall mean service by such person as a teacher and as an auxiliary employee rendered prior to September 1, 1949.

(10) "Membership Service" shall mean service rendered as a teacher or as an auxiliary employee, or both, while a member of the Retirement System; and shall also mean service rendered as an auxiliary employee after September 1, 1937 and prior to membership of such person in the Retirement System, by a person who became a member of the Retirement System on or before August 31, 1949 or who was eligible for membership in the Retirement System on or before August 31, 1949.

(11) "Creditable Service" shall mean "prior service" plus "membership service" for which credit is allowable as provided in Section 4 of this Act.

(12) "Beneficiary" shall mean any person in receipt of an annuity, a retirement allowance, or other benefit as provided by this Act.

(13) "Regular Interest" shall mean interest at the rate of three and one-half ( $3\frac{1}{2}\%$ ) per centum per annum, compounded annually.

(14) "Current interest" shall mean interest at a rate per centum per annum ascertained each year by dividing (1) the amount in the Interest Fund on August 31st of such year before the transfer of interest to other funds, less an amount equal to three and one-half ( $3\frac{1}{2}\%$ ) per centum of the sum of the mean amount in the Membership Annuity Reserve Fund during such year, and the mean amount in the Prior-Service Annuity Reserve Fund during such year, and less an amount not to exceed Fifty (50) Cents per member of record as of August 31st of that year as may be set annually by the Board of Trustees; by (2) an amount equal to the amount in the State Membership Accumulation Fund at the beginning of such year plus the amount in the Permanent Retirement Fund at the beginning of such year, and plus the sum of the accumulated contributions in the Teacher Saving Fund at the beginning of such year to the credit of all members included in the membership of the System on August 31st of such year, before any transfers for Service Retirement effective August 31st of such year are made; it being provided that the above division shall be carried to only three (3) decimal places and shall never be taken as greater than three and one-half ( $3\frac{1}{2}\%$ ) per cent.

(15) "Accumulated Contributions" shall mean the sum of all the amounts deducted from the compensation of a member, and credited to his individual account in the Teacher Saving Fund, together with all current interest credits thereto, as provided in Section 8 of this Act.

(16) "Earnable Compensation" shall mean the full rate of the compensation that would be payable to a teacher or auxiliary employee if he worked the full normal working time. In cases where compensation includes maintenance, the State Board of Trustees shall fix the value of that part of the compensation not paid in money.

(17) (a) "Average Prior Service Compensation" as to any person who became a member of the Retirement System on or before August 31, 1949, or who was eligible for membership in the Retirement System on or before August 31, 1949, shall mean the average annual compensation of such person as a teacher or an auxiliary employee, or both, during the ten (10) years immediately preceding September 1, 1937; or if he had less than ten (10) years of such service, then his Average Prior Service Compensation shall be computed for his total years of such prior service within such ten-year period; or if he had no service during such ten-year period, his Average Prior Service Compensation shall be the annual compensation paid such person for service as teacher or as auxiliary employee during the year nearest preceding September 1, 1927 in which the member rendered service.

(b) As to any person who shall for the first time become eligible for membership in the Retirement System on or after September 1, 1949, "Average Prior Service Compensation" shall mean the average annual compensation of such person as an auxiliary employee during the ten (10) years immediately preceding September 1, 1949; or if he had less than ten (10) years of such service, then his Average Prior Service Compensation shall be computed for his total years of such prior service within such period; or if he had no service during such ten-year period immediately preceding September 1, 1949, his Average Prior Service Compensation shall be the annual compensation paid such person for service as a teacher or as an auxiliary employee during the year nearest preceding September 1, 1939 in which the member rendered service.

(c) The sum of Three Thousand (\$3,000.00) Dollars shall be the maximum amount of salary which shall be taken into account for any one year in calculating Average Prior Service Compensation.

(18) "Membership annuity" shall mean payments for life actuarially determined and derived from reserve funds contributed by a member and an equal amount of reserve funds contributed by the State. All membership annuities shall be payable in equal monthly installments.

(19) "Prior Service Annuity" shall mean payment each year for life of two (2%) per centum of a member's Average Prior Service Compensation (as defined by this Act) multiplied by the number of years of Texas service certified in his Prior Service Certificate; provided that the maximum number of years of prior service to be allowed shall be thirty-six (36) years, and in computing his average prior-service compensation, the maximum prior-service salary shall be Three Thousand (\$3,000.00) Dollars. All prior-service annuities shall be payable in equal monthly installments.

(20) "Service Retirement Allowance" shall mean a membership annuity and a prior-service annuity, or any optional benefits payable in lieu thereof.

(21) "Disability Retirement Allowance" shall mean a membership annuity and a prior-service annuity.

(22) "Retirement" shall mean withdrawal from service with a retirement allowance granted under the provisions of this Act.

(23) "Service Retirement" means the retirement of a member from service with a service retirement allowance under any of the following conditions:

(a) At any time after twenty (20) years of creditable service in Texas and upon attaining the age of sixty (60) years;

(b) Retirement at any time after twenty-five (25) years of creditable service in Texas, although not in service at the time the age of sixty (60) years is attained, but only when the member shall have attained the age of sixty (60) years and only in instances where the member has not withdrawn his contributions;

(c) At any time after thirty (30) years of creditable service regardless of the age attained.

(24) "Disability Retirement" shall mean withdrawal from service on a disability allowance any time after twenty (20) years of creditable service in Texas and before attaining sixty (60) years of age.

(25) "Membership Annuity Reserve" shall mean the present value computed upon the basis of such annuity or mortality tables as shall be adopted by the State Board of Trustees, with regular interest, of all payments to be made on account of any membership annuity or benefit in lieu thereof, granted to a member under the provisions of this Act.

(26) "Actuarial Equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the State Board of Trustees, and regular interest.

(27) "School Year" shall mean the year beginning on or about September 1st and ending on or about August 31st. As amended Acts 1949, 51st Leg., p. 244, ch. 139, art. I.

#### **Establishment, powers and name**

Sec. 2. A Retirement System is hereby established and placed under the management of the State Board of Trustees as hereinafter created, for the purpose of providing retirement allowances and other benefits under and in accordance with the provisions of this Act, for persons employed in the public schools, colleges and universities supported wholly or partly by the State.

It shall have the power and privileges of a corporation and shall be known as the "Teacher Retirement System of Texas", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held. As amended Acts 1949, 51st Leg., p. 244, ch. 139, art. II.

#### **Membership**

Sec. 3.

(3) (a) All persons who are auxiliary employees of the public schools of this State on the first day of September, 1949 or who become auxiliary employees therein within ninety (90) days thereafter, shall as of September 1, 1949 become members of the Teacher Retirement System as a condition of employment upon the terms and conditions set out in this Act, unless within the period of ninety (90) days after September 1, 1949, any such person shall file with the State Board of Trustees of said System a notice in writing on such forms as the State Board of Trustees may prescribe, of his election not to be covered into the membership of said System, and a duly executed waiver of all present and prospective benefits which otherwise would inure to him on account of participation in the Retirement System.

(b) Any person not in service at any time between September 1, 1949 and November 30, 1949, both inclusive, who shall become an auxiliary employee in the public schools of this State on or after December 1, 1949, shall become a member of the Retirement System as a condition of employment.

(c) The provisions of paragraph (a) of this Subsection shall not apply to any person who, on September 1, 1949, is a member of the Employees' Retirement System of Texas. As amended Acts 1949, 51st Leg., p. 244, ch. 139, art. III.

(4) (a) Any person who elected not to become a member of the Teacher Retirement System and prior to September 1, 1948 filed a written notice of such election and a waiver of benefits under said System, or who prior to September 1, 1949 may have elected not to become a member of the Employees' Retirement System of Texas and has filed a waiver of benefits under the Employees' Retirement System of Texas, may thereafter, if he shall be employed as a teacher or auxiliary employee, become a member of the Teacher Retirement System upon application to become a member at the beginning of any new school year; but he shall not be entitled to any prior-service credit upon so becoming a member.

(b) Any auxiliary employee who pursuant to Subsection (3) of this Section, elects not to become a member of the Teacher Retirement System as of September 1, 1949, and executes a waiver of benefits as therein provided, may if he shall be employed as a teacher or auxiliary employee, make application to become a member at the beginning of any new school year thereafter, but upon so becoming a member he shall not be entitled to Prior-Service Credit. As amended Acts 1949, 51st Leg., p. 244, ch. 139, art. IV.

(5) (a) Anyone who has taught in the State of Texas in accordance with the terms of this Act, but who is not in service in the 1937-38 school year, if he subsequently becomes a teacher or auxiliary employee and if he continues as such for a period of five (5) consecutive years of creditable service, shall be entitled to receive credit and resulting benefits for prior service as provided for in this Act.

(b) Any person who was an auxiliary employee of the public schools of this State prior to September 1, 1949, but who is not in service on that date or within ninety (90) days thereafter, if he subsequently becomes a member of the Retirement System and if he continues as such for a period of five (5) consecutive years of creditable service, shall be entitled to receive credit for prior service, and the resulting benefits as provided for in this Act.

(c) Should any member in any period of six (6) consecutive years after becoming a member be absent from service more than five (5) consecutive years, or should he withdraw his accumulated contributions, or should become a beneficiary, or upon his death, he shall thereupon cease to be a member; provided, however, that any member who has twenty-five (25) years of creditable service in Texas may leave the service prior to attaining the age of sixty (60) years and continue as a member of the Teacher Retirement System by not withdrawing his accumulated contributions, and said member shall be entitled to retirement upon attaining said age of sixty (60) years with all the rights, duties and privileges as though he had continued in the service until attaining the age of sixty (60) years; provided further, that during the time the United States is in a state of war and for a period of twelve (12) months thereafter, time spent by a member of the Teacher Retirement System (1) in the Armed Forces of the United States of America and their auxiliaries, and/or in the Armed Forces Reserve of the United States of America and their auxiliaries, and/or in the service of the American Red Cross as a result of having volunteered or having been drafted or conscripted thereinto; or (2) in war work as a direct result of having been drafted and/or conscripted into said war work, shall not be construed as absent from service insofar as the provisions of this Act are

concerned, but shall count towards membership service. As amended Acts 1949, 51st Leg., p. 244, ch. 139, art. V.

#### Creditable service

##### Sec. 4.

(1) Under such rules and regulations as the State Board of Trustees shall adopt, each person upon becoming a member of the Retirement System shall file a detailed statement of all his prior service as a teacher or auxiliary employee in Texas. As amended Acts 1949, 51st Leg., p. 244, ch. 139, art. VI.

(5) Creditable service of a member shall consist of the membership-service rendered by him since he last became a member, and, if such membership began after September 1, 1937 and prior to September 1, 1949 and such member had service prior to membership and during such twelve-year period as an auxiliary employee, shall include such service; and also, if he has a prior-service certificate which is in full force and effect, shall include the amount of the service credited on his prior-service certificate. No member shall be entitled to a retirement allowance who has not taught twenty (20) or more years in Texas, and until he shall have accumulated twenty (20) or more years of creditable service in Texas. As amended Acts 1949, 51st Leg., p. 244, ch. 139, art. VI.

#### Benefits

##### Sec. 5.

###### 1. Service Retirement Benefits.

Any member may retire upon written application to the State Board of Trustees. The effective date of retirement for any member, making application under this Act, shall be, at the option of said member, forthwith or as of the end of the school year then current, provided that the said member at the time so specified for his retiring shall have attained the age of sixty (60) years and shall have completed twenty (20) years of creditable service in Texas; provided that a member who leaves the service after completing twenty-five (25) years of creditable service shall be eligible for retirement upon attaining the age of sixty (60) years if said member is then living and if he shall not have withdrawn his contributions; and provided further, that any member with thirty (30) years of creditable service may retire at any time regardless of age attained. No retirement shall be effective prior to August 31, 1941. Any member in service who has attained the age of seventy (70) years shall be retired forthwith, provided that with the approval of his employer he may remain in service. Any member who has accepted service retirement shall be ineligible and disqualified to resume and/or continue employment in the public schools of Texas, and also shall be ineligible, and disqualified to be otherwise employed in the public schools of this State; provided, however, that during the present world conflict, commonly called "World War II", and for a period of twelve (12) months thereafter, a retired member who retired August 31, 1942, and prior thereto, and only such retired member shall not be ineligible and disqualified as above stated but may be employed as a teacher under the terms of this Act; provided, however, that during said time a retired member is so employed, retirement benefit payments that would otherwise have been paid to said member shall be suspended and shall be resumed again when said member leaves said employment permanently; provided further, that during the time that said retired teacher member is employed as a teacher, as above specified and limited, no retirement deductions shall be made from his salary, and the retirement benefits that are paid to said retired member after the benefits are again resumed

shall be in the same amount as were paid on the original retirement; provided that if a retired member returns to teaching as above outlined, during the time he is so teaching, both the membership annuity payment and the prior service annuity payment, to which said retired member would have been entitled if he had not so returned to teaching, shall be transferred to the State Membership Accumulation Fund; provided further, that if a retired member who elected to receive an annuity in a guaranteed payment for a certain number of years after retirement returns to teaching as above specified, the time so spent teaching by such retired member after the initial or original retirement shall count as time within said certain number of years the same as if said retired member had not returned to teaching; provided further, that any retired member who accepts employment as a teacher, except in the present world conflict and for twelve (12) months thereafter, as above specified, shall forfeit all rights as a retired teacher and any and all claims to any retirement benefits under this Act; provided further, that every retired member is charged with the knowledge of all these provisions and by returning to teaching shall be deemed to have accepted the same.

## 2. Allowance for Service Retirement.

Upon retirement from service a member shall receive a service retirement allowance consisting of a membership annuity, which shall be the actuarial equivalent of his membership annuity reserve, and a prior-service annuity to which his creditable service and membership in the Teacher Retirement System entitles him under the provisions of this Act.

(a) His membership annuity reserve shall be derived from:

(1) His accumulated contributions credited to his account in the Teacher Saving Fund at the time of retirement; and

(2) An additional sum from the State Membership Accumulation Fund equal to the accumulated contributions provided by the member in Subsection (1) of paragraph (a) of this Subsection.

(b) If he has a prior-service certificate in full force and effect, the prior service annuity shall be two (2%) per centum of his average prior-service compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior-service certificate; except that for the first sixty (60) days from and after the passage of this Act, the prior-service annuity shall be computed on the basis of one and one-half (1½%) per centum of his average prior-service compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior-service certificate; provided that the maximum number of years of prior-service to be allowed shall be thirty-six (36) years and that in computing his average prior-service compensation, the maximum prior-service salary shall be Three Thousand (\$3,000.00) Dollars; provided that the State Board of Trustees shall have an actuarial and statistical study made at least once every five (5) years showing annual trends. It is expressly provided that monthly payments, payable sixty (60) days or more after the passage of this Act, under prior-service annuities which became effective prior to the passage of this Act, or which became effective within sixty (60) days from and after the passage of this Act, shall be computed on the same basis and in the same manner as monthly payments under prior-service annuities for members whose retirement is effective later than sixty (60) days after the effective date of this amending Act. Upon the recommendation of the actuary, the State Board of Trustees shall have the power to reduce proportionately all payments for prior-service annuities at any time and for such period of time as is necessary so that the payments to beneficiaries for prior-service annuities in any biennium



shall not exceed the available assets for payment of prior-service annuities in such biennium.

(c) It is expressly provided that the prior-service compensation herein provided for shall be a mutual agreement on the part of the State of Texas and the teacher-member of the Retirement System, and in no event shall the failure of the State Board of Trustees to make adjustments for which total funds are not available for payment of prior-service benefits be held as liability against the State of Texas. It is further expressly provided that there shall be no claim for payments under prior-service annuities for any period of time prior to September 1, 1941.

### 3. Disability Retirement Benefits.

Upon the application of a member or of his employer or his legal representative acting in his behalf, any member who has had twenty (20) or more years of creditable service may be retired by the State Board of Trustees, not less than thirty (30) and not more than ninety (90) days next following the date of filing such application, on a disability retirement allowance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member shall be retired.

### 4. Allowance on Disability Retirement.

Upon retirement for disability a member shall receive a service retirement allowance if he has attained the age of sixty (60) years; otherwise, he shall receive a disability retirement allowance consisting of a membership annuity, which shall be the actuarial equivalent to his membership annuity reserve, and a prior-service annuity to which his creditable service and membership in the Teacher Retirement System entitles him under the provisions of this Act:

(a) His membership annuity reserve shall be derived from:

(1) His accumulated contributions credited to his account in the Teacher Saving Fund at the time of retirement; and

(2) An additional sum from the State Membership Accumulation Fund equal to the accumulated contributions provided by the member in Subsection (1) of Paragraph (a) of this Subsection.

(b) If he has a prior-service certificate in full force and effect, he shall receive a prior-service annuity equal to the prior-service provided in Paragraph (b), Subsection (2) of Section 5 of this Act. It is expressly provided that monthly payments, payable after the passage of this Act, under prior-service annuities which became effective prior to the passage of this Act, or which become effective within sixty (60) days from and after the passage of this Act, shall be computed on the same basis and in the same manner as monthly payments under prior-service annuities for members whose retirement is effective later than sixty (60) days after the effective date of this Act.

### 5. Beneficiaries Retired on Account of Disability.

Once each year during the first five (5) years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the State Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or any other place mutually agreed upon, by a physician or physicians designated by the Board of Trustees. Should any disability beneficiary who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such periods by a physician or physicians designated by the State Board of Trustees, his allowance

shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his allowance shall be revoked by the State Board of Trustees.

(a) Should the Medical Board report and certify to the State Board of Trustees that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, or that such disability beneficiary is engaged in or is able to engage in a gainful occupation, and should the State Board of Trustees by a majority vote concur in such report, then the amount of his allowance shall be discontinued or be reduced to an amount by which the amount of the salary earned during his latest year of creditable service exceeds his present earning capacity.

Should his earning capacity be later changed, the amount of his allowance may be further modified; provided, that the revised allowance shall not exceed the amount of the allowance originally granted, nor shall it exceed an amount which, when added to the amount earnable by the beneficiary, equals the amount of his compensation for the last year prior to retirement.

(b) Should a disability beneficiary under the age of sixty (60) years be restored to active service, his retirement allowance shall cease, he shall again become a member of the Retirement System, and any reserves on his membership annuity at that time in the membership Annuity Reserve Fund shall be transferred to the Teacher Saving Fund and to the State Membership Accumulation Fund, respectively, in proportion to the original sum transferred to the Membership Annuity Reserve Fund at Retirement. Upon restoration to membership, any prior-service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his membership service. No member eligible to retire for service at sixty (60) years of age shall be allowed to retire on a disability allowance. Should a disability beneficiary die or be removed from the disability list for any cause other than restoration to active service, an amount equal to the amount by which such beneficiary's accumulated contributions at the time of disability retirement exceed the membership service annuity payments received by such beneficiary under his disability allowance, if any such excess exists, shall be paid from the Membership Annuity Reserve Fund of such beneficiary if living; otherwise such amount shall be paid as provided by laws of descent and distribution of Texas unless the beneficiary has directed such amount to be paid otherwise.

#### 6. Return of Accumulated Contributions on Death or Withdrawal.

(a) Should a member cease to be a teacher or auxiliary employee except by death or retirement under the provisions of this Act, he shall, upon the filing of formal application therefor, be paid in full the amount of the accumulated contributions standing to the credit of his individual account in the Teacher Saving Fund, and his account shall thereupon be closed.

(b) A member may by written designation in such form as the Board of Trustees may prescribe, provide that the accumulated contributions standing to his individual account shall be paid in the event of the death of the member before retirement, to the beneficiary named in such written designation; and if the member shall die before retirement, his accumulated contributions shall upon application be paid to the beneficiary so designated, if the beneficiary survives the member. The member may change the beneficiary designated to receive his accumulated deposits in case of death before retirement, or revoke a designation previously made,

by filing with the Board of Trustees in such form as it may require, notice of such change or revocation.

In the event the member dies before retirement without so designating a beneficiary to receive his accumulated contributions, or in event the designated beneficiary predeceases the member, his accumulated contributions standing to his credit in the Teacher Saving Fund shall be paid to his estate. Payment of the accumulated contributions of a member to the executor or administrator of his estate shall discharge the Retirement System from any other or further liability; the Board of Trustees may by rule regulate the terms and conditions upon which payment will be made in cases where no administration is begun, and payment made in accordance with such provision shall discharge the Retirement System from further liability.

(c) Seven years after cessation of service, if no previous demand has been made, any accumulated contributions of a contributor shall be returned to him or to his heirs. If the contributor or his heirs cannot then be found, his accumulated contributions shall be forfeited to the Retirement System and credited to the Permanent Retirement Fund.

#### 7. Optional Allowances for Service Retirement.

With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of death, any member may until the first payment on account of any service benefit becomes normally due elect to receive his membership annuity in an annuity payable throughout life, or he may elect to receive the actuarial equivalent at that time, of his membership annuity in a reduced membership annuity payable throughout life with the provision that:

Option (1). Upon his death, his reduced membership annuity shall be continued throughout the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (2). Upon his death, one-half of his reduced membership annuity shall be continued through the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (3). Some other benefit or benefits shall be paid either to the member, or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the reduced membership annuity shall be certified by the actuary to be of equivalent actuarial value to his membership annuity, and approved by the State Board of Trustees.

With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement and that such a beneficiary shall be considered as an active member at the time of death, any member may, until the first payment on account of any service benefit becomes normally due, elect to receive his prior-service annuity in an annuity payable throughout life, or he may elect to receive the actuarial equivalent at that time, of his prior-service annuity in a reduced prior-service annuity payable as provided in Options (1), (2), or (3) above, provided that all payments under all prior-service annuities are subject to adjustment by the State Board of Trustees as provided in Section 5, Subsection 2, Paragraph (b) of this Act; provided further, that the same option must be selected by a member for the payment of his prior-service annuity as is selected by the member for the payment of his membership service annuity. As amended Acts 1949, 51st Leg., p. 244, ch. 139, Art. VII.

**Management of funds**

Sec. 7. (1) The State Board of Trustees shall be the trustees of the several funds as herein created by this Act, and shall have full power to invest and reinvest such funds subject to the following limitations and restrictions: All retirement funds, as are received by the Treasury of the State of Texas from contributions of teachers and employers, as herein provided, may be invested only in bonds of the United States, the State of Texas, Texas State Supported Institutions of Higher Learning, or counties, or cities, or school districts, or junior college districts, or road precincts, or road districts, wherein said counties, or cities, or school districts, or junior college districts, or road precincts, or road districts have not defaulted in principal or interest on bonds within a period of ten (10) years, or in bonds issued by any agency of the United States Government, the payment of the principal and interest on which is guaranteed by the United States; and in interest bearing notes or bonds of The University of Texas issued under and by virtue of Chapter 40, Acts of the Forty-third Legislature, Second Called Session; provided that a sufficient amount of said funds shall be kept on hand to meet the immediate payment of the amounts that may become due each year as provided in this Act. The State Board of Trustees shall have full power by proper resolution to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any moneys belonging to said funds, provided that any money on hand shall be subject to the State Depository Laws of Texas. As amended Acts 1949, 51st Leg., p. 1113, ch. 571, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

**Method of financing****Sec. 8.**

The amount contributed by each member to the Retirement System shall be five (5%) per centum of the regular annual compensation paid each member, the amount not to exceed One Hundred Eighty (\$180.00) Dollars per annum. After such time as the State shall have contributed to the Retirement System a sum equivalent to the sum of all amounts which have been contributed by the members of the Retirement System, the amount contributed by the State of Texas to the Retirement System thereafter shall not exceed during any one year five (5%) per centum of salaries of all members, disregarding salaries in amounts in excess of Three Thousand Six Hundred (\$3,600.00) Dollars, provided the total amount contributed by the State during any one (1) year shall at least equal the total amount contributed during the same year by all members of the Retirement System.

All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one (1) of seven (7) funds, namely, the Teacher Saving Fund, the State Membership Accumulation Fund, the Membership Annuity Reserve Fund, the Prior-Service Annuity Reserve Fund, the Interest Fund, the Permanent Retirement Fund, and the Expense Fund.

**1. The Teacher Saving Fund.**

“(a) The Teacher Saving Fund shall be a fund in which shall be accumulated regular five (5%) per centum contributions from the compensation of members, including current interest earnings. Contributions to and payments from the Teacher Saving Fund shall be made as follows:

(b) Each employer shall cause to be deducted from the salary of each member on each and every pay roll of such employer for each and every pay roll period, five (5%) per centum of his earnable compensation, provided that the sum of the deductions made for a member shall not exceed One Hundred Eighty (\$180.00) Dollars during any one year. Deductions shall begin with the first pay roll period of the school year 1937-38. In determining the amount earnable by a member in a pay roll period, the State Board of Trustees may consider the rate of annual compensation payable to such member on the first day of the pay roll period as continuing throughout such pay roll period, and it may omit deduction from compensation for any period less than a full pay roll period if the person was not a member on the first day of the pay roll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth (1/10) of such one (1%) per centum of the annual compensation upon the basis of which such deduction is to be made.

(c) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation; and payment of salary or compensation, less said deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this Act. The employer shall certify to the State Board of Trustees on each and every pay roll, or in such other manner as said Board may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into said Teacher Saving Fund, and shall be credited to the individual account of the member from whose compensation said deduction was made.

(d) During the time that the United States is in a state of war and for twelve (12) months thereafter, a member of the Teacher Retirement System (1) in the Armed Forces of the United States or their auxiliaries and/or in Armed Forces Reserve of the United States and their auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereinto; or (2) in war work as a direct result of having been drafted and/or conscripted into said war work, shall be permitted to contribute each year to the Retirement System a sum not to exceed the amount contributed by him to said Retirement System during the last year that he was employed as a teacher or auxiliary employee under the provisions of this Act. The sum so contributed by such member and received by the Retirement System shall be deposited by said Retirement System in the Teacher Saving Fund to the credit of the member's individual account and shall be treated in the same manner as funds contributed by the member while he was employed as a teacher or auxiliary employee under the provisions of this Act.

(e) Any member of the Retirement System who became a member after September 1, 1937 and prior to September 1, 1949, and who prior to becoming a member rendered one or more years of creditable service as an auxiliary employee after September 1, 1937, shall be permitted to contribute to his individual account in the Teacher Saving Fund a sum equal to five (5%) per centum of his compensation for each such year of service, but not in excess of One Hundred Eighty (\$180.00) Dollars for any one year of such service; and said sums so contributed shall be deposited to his individual account, and from the date of deposit thereof

shall be treated in the same manner as are the sums required to be contributed by members. The privilege of contribution permitted by this Subsection must be exercised and the contributions paid in prior to retirement, and at all events prior to August 31, 1954.

(f) Current Interest on members' contributions shall be credited annually as of August 31st, and shall be allowed on the amount of the accumulated contributions standing to the credit of the member at the beginning of the year and shall not be allowed for parts of a year. Following the termination of membership in the Retirement System for those members who have been absent from service for five (5) years in any period of six (6) consecutive years, the Teacher Saving Fund account of such members shall be closed and warrants covering the total accumulated contributions sent to them upon the filing of formal application. Until the time of payment of such accumulated contributions, said teacher shall receive no interest on the amount due him under this Sub-section, and the amount shall be held in a non-interest-bearing account to be set up for such purpose.

(g) Upon the retirement of a member, his accumulated contributions shall be transferred from the Teacher Saving Fund to the Membership Annuity Reserve Fund.

## 2. State Membership Accumulation Fund.

The State Membership Accumulation Fund shall be the fund in which shall be accumulated all contributions made to the Teacher Retirement System by the State of Texas for the purpose of providing upon the retirement of each member an amount equal to such member's accumulated contributions; and from which shall be transferred to the Membership Annuity Reserve Fund at the retirement of a member an amount equal to the accumulated contributions of the member. Contributions to and payments from the fund shall be made as follows:

(a) On or before the first day of November, next preceding each Board of Trustees shall adopt, the Actuary shall determine the annual amount required to be paid into the State Membership Accumulation Fund in order to accumulate by or before August 31, 1966, a sufficient sum to meet all present and prospective liabilities of this Fund at the termination of said period, and to provide the amount required according to this Act to be transferred from this Fund into the Membership Annuity Reserve Fund during such periods. 'Present and prospective liabilities' as used herein shall mean at any time an amount equal to that amount in the Teacher Saving Fund at that time which will eventually be transferred to the Membership Annuity Reserve Fund, according to calculations made by the Actuary and approved by the State Board of Trustees on the basis of the mortality and other tables adopted by the State Board of Trustees. The State Board of Trustees shall certify annually to the Comptroller of Public Accounts and the State Treasurer the amount so ascertained by the Actuary, and such amount shall be paid each year in equal monthly installments in the manner hereinafter provided into the State Membership Accumulation Fund by the Comptroller from the funds appropriated as contributions to the Teacher Retirement System by the State of Texas. If the investigation and valuation as herein provided to be made each five (5) years shall cause a revision in the amount to be paid into this Fund annually in order to provide the required reserves by or before August 31, 1966, as determined by the State Board of Trustees, the revised amount shall be certified to the Comptroller annually, and the revised amount shall thereafter be paid into the State Membership Accumulation Fund each year.

(b) When the amount in the State Membership Accumulation Fund shall become sufficient to meet the present and the prospective liabilities

of this Fund, the State of Texas shall thereafter pay each year in equal monthly installments into the State Membership Accumulation Fund an amount equal to a per centum of the contributions of the members during such year which shall be calculated by the Actuary and certified to the Comptroller of Public Accounts by the State Board of Trustees as being the necessary and required per centum to maintain a reserve in this Fund equal to present and prospective liabilities of the Fund. The rate per centum so certified shall continue in force until modified by the Board of Trustees on the basis of a new investigation and valuation as provided for herein to be made at the end of each five-year period.

(c) Upon the retirement of a member, an amount equal to his accumulated contributions in the Teacher Saving Fund shall be transferred from the State Membership Accumulation Fund into the Membership Annuity Reserve Fund as a reserve for his Membership Annuity.

### 3. Membership Annuity Reserve Fund.

The Membership Annuity Reserve Fund shall be the fund in which shall be held all reserves for membership annuities granted and in force and from which shall be paid all membership annuities and all benefits in lieu of membership annuities, payable as provided in this Act. This fund shall be made up of transfers as follows:

(a) At the time of service or disability retirement the accumulated contributions of a retiring member shall be transferred from the Teacher Saving Fund to the Membership Annuity Reserve Fund as reserves for the membership annuity purchased by his contributions.

(b) An amount equal to the accumulated contributions of each retiring member shall be transferred, upon service or disability retirement, from the State Membership Accumulation Fund as reserves for an additional membership annuity equal to the membership annuity purchased by the teacher.

Transfers and payments from the Membership Annuity Reserve Fund shall be made as provided in Section 5, Subsection (5), Paragraph (b) of this Act, upon the death restoration to active service or removal from the disability list of a beneficiary retired on account of disability.

### 4. Prior-Service Annuity Reserve Fund.

The Prior-Service Annuity Reserve Fund shall be the fund in which shall be accumulated all contributions made to the Retirement System by the State of Texas for the purpose of providing the amounts required for payment of prior-service annuities; and from which prior-service annuities shall be paid to beneficiaries as herein provided. Contributions to and payments from this fund shall be made as follows:

(a) All moneys appropriated by the State of Texas as contributions to the Teacher Retirement System each year and which will not be paid into the State Membership Accumulation Fund as elsewhere herein provided shall be paid into the Prior-Service Annuity Reserve Fund in the manner hereinafter provided.

(b) All prior-service annuity payments to beneficiaries, as provided in this Act to be paid after September 1, 1941, shall be paid from this fund. The State Board of Trustees shall have the power to reduce proportionately all payments for prior-service annuities at any time and for such period of time as is necessary so that the payments to beneficiaries for prior-service annuities in any biennium shall not exceed the available assets for payment of prior-service annuities in such biennium.

### 5. Interest Fund.

The Interest Fund is hereby created to facilitate the crediting of interest to the various other funds. All income, interest, and dividends derived from the deposits and investments authorized by this Act shall

be paid into the Interest Fund. Once each year on August 31st, interest shall be allowed and transferred to the other funds, respectively. The State Board of Trustees shall annually transfer to the credit of the interest reserve account of the Permanent Retirement Fund all excess earnings after interest-bearing funds and the Expense Fund have been duly credited with interest for the year in the manner provided in this Act.

#### 6. Permanent Retirement Fund.

The Permanent Retirement Fund shall be a fund in which shall be accumulated all gifts, awards, funds and assets accruing to the Retirement System not specifically required by other funds created by this Act, and to provide a contingent fund out of which special requirements of other funds may be covered. The principal of this fund is hereby held and dedicated as a perpetual endowment of the Retirement System and shall not be diverted or appropriated to any other cause or purpose. All current interest credited to this fund and excess interest earnings transferred to this Fund shall be held as an interest reserve account from which the State Board of Trustees shall transfer annually to the Expense Fund such amount as is required to provide for the administration and maintenance of the Retirement System, provided the funds are available.

#### 7. Expense Fund.

The Expense Fund shall be the fund from which the expenses of administration and maintenance of the Retirement System shall be paid. Transfers to and payments from this Fund shall be made as follows:

(a) The Executive Secretary shall prepare annually an itemized budget showing the amount required to defray the expenses for the ensuing fiscal year and shall submit the report to the State Board of Trustees for its review and adoption.

(b) Each member shall pay with the first payment to the Teacher Saving Fund each year, and in addition thereto a sum of One (\$1.00) Dollar, which amount shall be credited to the Expense Fund. Said payments for the Expense Fund shall be made to the State Board of Trustees in the same way as payments to the Teacher Saving Fund shall be made, as provided for in this Act; provided, however, that if said payment for the Expense Fund of any member is not made with said first payment of said member, the State Board of Trustees may deduct the amount of the payment for the Expense Fund from said first payment of said member.

(c) If the amount estimated to be required to meet the expenses of the State Board of Trustees is in excess of One (\$1.00) Dollar per contributor for the year, the amount of such excess shall be paid from the interest reserve account of the Permanent Retirement Fund. If, in the judgment of the State Board of Trustees, as evidenced by a resolution of that Board recorded in its minutes, the amount in the interest reserve account of the Permanent Retirement Fund exceeds the amount necessary to cover the ordinary requirement of that Fund for a period of five (5) years in the future, the Board may transfer to the Expense Fund such excess amount not exceeding the entire amount required to cover the expenses as estimated for the year.

(d) If the amount estimated to be required to meet the expenses of the State Board of Trustees is in excess of One (\$1.00) Dollar per contributor for the year, and if there is an insufficient amount in the interest reserve account of the Permanent Retirement Fund to pay such excess, the State Board of Trustees, as evidenced by a resolution of that Board recorded in its minutes, shall transfer to the Expense Fund, from the Interest Fund, an amount necessary to cover the expenses as estimated



for the year; but in no event shall the amount so transferred exceed, in any one year, Fifty (50¢) Cents per member of record as of August 31st of that year.

8. Collection of Contributions.

(1) The collection of members' contributions shall be as follows:

(a) Each employer shall cause to be deducted on each and every pay roll of a member for each and every pay roll period subsequent to the date of establishment of the Retirement System the contributions payable by such member, as provided in this Act. Each employer shall certify to the treasurer of said employer on each and every pay roll a statement as vouchers for the amount so deducted.

(b) The treasurer or proper disbursing officer of each employer on authority from the employer shall make deductions from salaries of members as provided in this Act, and shall transmit monthly, or at such time as the State Board of Trustees shall designate, a certified copy of the pay roll, and the amount specified to be deducted shall be paid to the Executive Secretary of the State Board of Trustees; and after making a record of all receipts, the said Board shall pay them to the Treasurer of the State of Texas, and by him be credited to Teacher Saving Fund, and such funds shall be deemed as appropriated for use according to the provisions of this Act. For the purpose of collecting contributions of persons who are employed in common school districts, the county superintendent or ex officio county superintendent of each county of this State is hereby designated to perform the duties of employer of all common school districts over which he has jurisdiction, and he is hereby authorized and empowered to retain the amounts so deducted from pay rolls of members and have a corresponding amount deducted from any funds available for paying employees' salaries, and transmit same to the Executive Secretary of the State Board of Trustees as provided for in this Act. Any college or university or other educational institution or agency supported in whole or in part by the State shall have the amount retained or deducted from the funds regularly appropriated by the State for the current maintenance for such educational departments and institutions.

(c) Any member of the Teacher Retirement System from whose salary prior to August 31, 1943, a deduction or deductions have not been made, but which should have been made, in accordance with the provisions of this Act, may elect to pay such sums that should have been deducted, on such terms as are determined by the State Board of Trustees, and thus receive the credit for prior service and membership service to which the member may be entitled for teaching under the provisions of this Act prior to August 31, 1943, or not to pay such sums and thus acquire the status of a beginning teacher as of September 1, 1943, or if said member is not teaching at that time, as of the date when the member resumes teaching under the Act. Provided, the provisions of this Act shall apply only to deductions which should have been made from salaries of teachers prior to August 31, 1943, and to no other time.

(d) For the purpose of enabling the collection of five (5%) per centum of the salaries of the members of the Retirement System to be made as simple as possible, the State Board of Trustees shall require the secretary or other officer of each employer-board or agency, within thirty (30) days after the beginning of each school year, to make up a list of all teachers or auxiliary employees in its employment, who are members of the Retirement System, set out their salaries by the month and by the year, make an affidavit to the correctness of this statement, and file the same with the Executive Secretary of the State Board of Trustees of the Teacher Retirement System. If additions to or deduc-

tions from this list should be made during the year, such additions or deductions shall likewise be certified under oath to the State Board of Trustees of the Teacher Retirement System.

(e) The State Treasurer shall furnish annually to the State Board of Trustees a sworn statement of the amount of the funds in his custody belonging to the Retirement System. The records of the State Board of Trustees shall be open to public inspection and any member of the Retirement System shall be furnished with a statement of the amount to the credit of his individual account upon written request by such member, provided that the State Board of Trustees shall not be required to answer more than one such request of a member in any one year.

(2) The collection of the State's contributions shall be made as follows:

(a) On or before the first day of November, next preceding each Regular Session of the Legislature, the State Board of Trustees shall certify to the State Board of Control for its review and adoption the amount necessary to pay the contributions of the State of Texas to the Teacher Retirement System for the ensuing biennium. This amount shall be included in the budget of the State which the Governor submits to the Legislature. The State Board of Trustees shall certify on or before August 31st of each year to the State Comptroller of Public Accounts and to the State Treasurer the estimated amount of contributions to be received from members during the ensuing year.

(b) All moneys allocated and appropriated by the State to the Teacher Retirement System shall be paid to the Teacher Retirement System in monthly installments as provided in House Bill No. 8, Acts of the Regular Session, 47th Legislature.<sup>1</sup> Each of said monthly installments shall be paid into the State Membership Accumulation Fund and the Prior-Service Annuity Reserve Fund in the proportional amounts certified by the State Board of Trustees. As amended Acts 1949, 51st Leg., p. 244, ch. 139, art. VIII.

<sup>1</sup> Laws 1941, ch. 184. For distribution of articles see Tables.

#### Penalties

Sec. 10. Any person who shall confiscate, misappropriate, or convert moneys representing deductions from salaries of teachers or auxiliary employees of the Retirement System, before such moneys are received by the Retirement System, or moneys of the Retirement System shall be guilty of a felony, and upon conviction shall be punished by confinement in the State Penitentiary for any term of years not less than one (1) nor more than five (5). Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this Retirement System in any attempt to defraud such System, as a result of such act shall be guilty of a felony and upon conviction shall be punished by confinement in the State Penitentiary for any term of years not less than one (1) nor more than five (5). Should any change or error in the records result in any member or beneficiary receiving from the Retirement System more or less than he would have been entitled to receive had the records been correct, the State Board of Trustees shall correct such error, and so far as practicable shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Violation of Provisions. Any person, including any county superintendent or ex officio county superintendent, and any member of the employer and/or its treasurer or proper disbursing officer, who violates any of the provisions of this Act other than those to which the first paragraph of this Section applies shall be guilty of a misdemeanor and

shall be fined not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars. Any member of the System who knowingly receives money as salary, which money should have been deducted from his salary under the provisions of this Act, shall be guilty of a misdemeanor and shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars. The teacher's certificate of any person who violates the provisions of this Act may be cancelled by the State Superintendent of Public Instruction after the State Superintendent has been notified of such violation by the State Board of Trustees of the Teacher Retirement System and after the holder of the certificate has been notified by the State Superintendent and given an opportunity to be heard. Appeal from the decision of the State Superintendent shall, if made, be to the State Board of Education, the decision of which shall be final. Provided that it shall not be a prerequisite for action by the State Superintendent and/or the State Board of Education, as outlined, that any such holder shall first have been prosecuted and/or fined. As amended Acts 1949, 51st Leg., p. 244, ch. 139, art. IX.

Amendment by Acts 1949, 51st Leg., p. 244, ch. 139, effective May 10, 1949.

Acts 1949, 51st Leg., p. 244, ch. 139, art. X, read as follows: "Severability. If any Article, Section, Subsection, or provision of this Act be held unconstitutional or invalid for any reason, the remaining Arti-

cles, Sections, Subsections, and provisions shall not thereby be rendered invalid or ineffective; and it is declared that the Legislature would have enacted all the remaining provisions, Subsections, Sections and Articles without inclusion of that portion held unconstitutional or invalid."

## CHAPTER 22.—FOUNDATION SCHOOL PROGRAM [NEW]

Art.

2922—11. Title of act and purpose.

2922—12. Appropriations, positions and services.

2922—13. Units.

2922—14. Salaries.

2922—15. Services and operating costs.

2922—16. Finances.

2922—17. Private or parochial schools.

2922—18. Consolidation and addition of territory.

2922—19. Appeals to Court.

2922—20. Duties of state boards and officers.

2922—21. Offenses.

2922—22. Repealing and constitutional clause.

Art. 2922—11. Title of act and purpose

### Purpose.

This Act<sup>1</sup> shall be known as the Foundation School Program Act. It is the purpose of this Act to guarantee to each child of school age in Texas the availability of a minimum Foundation School Program for nine (9) full months of the year, and to establish the eligibility requirements applicable to Texas public school districts in connection therewith. Acts 1949, 51st Leg., p. 625, ch. 334, art. 1, § 1.

<sup>1</sup> Articles 2922—11 et seq., 634(B).

Emergency. Effective June 8, 1949.

Art. 2922—12. Appropriations, positions and services

### Finance.

Section 1. Appropriations enacted by the Legislature for the promotion of the educational opportunities afforded by the State of Texas under this Foundation School Program Act<sup>1</sup> shall be paid in accordance with the requirements and in the manner provided in this Act and any subsequent amendments thereto.

**Professional Positions and Services.**

Sec. 2. To effectuate the Foundation School Program proposed and guaranteed herein, school districts are authorized to utilize the following professional positions and services:

A. Professional Positions.

1. Classroom teachers.
2. Vocational teachers.
3. Special service teachers, among which shall be included librarians, school nurses, school physicians, visiting teachers, and itinerant teachers.
4. Teachers of exceptional children.
5. Supervisors and/or Counsellors.
6. Principals, part-time.
7. Principals, full-time.
8. Superintendents.

B. Services.

1. Current operating cost other than professional salaries and transportation.
2. Transportation.

Provided that the total number of professional units allotted to each district shall be the sum of the professional units, hereinafter prescribed, for classroom teachers, vocational teachers, special service teachers, teachers of exceptional children, supervisors and/or counsellors, full-time principals and superintendents. Such professional unit allotments shall be contingent upon the employment of qualified personnel and upon the payment of not less than the minimum salary as hereinafter prescribed.

No district will be required to employ professional personnel for the full number of professional units for which it is eligible, but where a fewer number are employed, grants shall be based upon the number actually employed during the current school year. Acts 1949, 51st Leg., p. 625, ch. 334, art. II.

<sup>1</sup> Articles 2922—11 et seq., 634(B).

**Art. 2922—13. Units**

**Professional Units.**

Section 1. The number of professional units allotted for the purpose of this Act<sup>1</sup> each school district, except as otherwise provided herein, shall be based upon and determined by the average daily attendance for the district for the next preceding school year, separate for whites and separate for negroes. Such allotments based upon white attendance shall be utilized in white schools, and allotments based upon negro attendance shall be utilized in negro schools. Provided, that where a school district is consolidated or contracted with another district, or where a school district or part of a school district is annexed to another district or districts, or where the number of grades taught has been reduced, or where scholastics are transferred to another district, or where there is an annual fluctuation in the attendance in a district, or where for any reason there is a marked increase or decrease in the attendance of any school district, adjustments in professional allotments shall be made by the State Commissioner of Education, and subsequent to the 1949-1950 school year such adjustments shall be subject to the rules and regulations of the State Board of Education with respect thereto. Provided that attendance in grades not classified to be taught by the County School Board shall not be included in determining professional unit eligibility.

Provided that the attendance of non-resident scholastics whose grades are taught in their home districts shall not count towards teacher eligibility, unless the transfer of such scholastics has been approved by the County School Board and the State Commissioner of Education.

Provided further, that any school district which is not a dormant school district as defined in Article VIII of this Act may, subject to the approval of the boards of trustees of the districts concerned, the County School Superintendent, and the State Commissioner of Education, contract for a period of one year to transfer its entire scholastic enrollment, both white and colored, to a contiguous district. The scholastic census rolls of both districts shall be combined, the per capita apportionment shall be paid direct to the receiving school, and the combined average daily attendance shall be used in determining the number of professional units for which the receiving district shall be eligible.

Provided further, that any school district containing one hundred (100) square miles or more and having fewer than one (1) pupil per square mile, and which is now equipped with school facilities to maintain, and is now operating and maintaining a four-year accredited high school, may be allotted by the State Commissioner of Education as many professional units as were provided during the school year 1948-1949; provided that the State Commissioner of Education shall take into consideration the density and distribution of population in the district, road conditions, and the proximity of the school to another four-year accredited high school in making such allotments.

Provided further, that for the school year 1949-1950, and for such school district as defined in Article VIII of this Act<sup>2</sup> may, subject to the school, which received salary aid from the State Equalization Fund for the 1948-1949 school year and was eligible for more teachers for the 1948-1949 school year than it is under the general provisions of this Act for the 1949-1950 school year, shall be approved for professional units in a number not to exceed its 1948-1949 eligibility, provided that such professional unit eligibility shall not exceed one classroom teacher unit for each twenty (20) pupils in average daily attendance in the public schools of the district for the 1948-1949 school year.

**(1) Classroom teacher units.** Classroom teacher professional units for each school district, separate for whites and separate for negroes, shall be determined, and teachers allotted in the following manner:

a. School districts having fewer than fifteen (15) pupils in average daily attendance shall not be eligible for any classroom teacher units, except that in cases of extreme hardship, such districts may be allotted on a year to year basis one classroom teacher unit if so recommended by the County Board of Education and approved by the State Commissioner of Education;

b. School districts having from fifteen (15) to twenty-five (25) pupils, inclusive, in average daily attendance, one (1) classroom teacher unit;

c. School districts having from twenty-six (26) to one hundred nine (109) pupils, inclusive, in average daily attendance, two (2) classroom teacher units for the first twenty-six (26) pupils and one (1) classroom teacher unit for each additional twenty-one (21) pupils (No credit for fractions);

d. School districts having from one hundred ten (110) to one hundred fifty-six (156) pupils, inclusive, in average daily attendance, six (6) classroom teacher units;

e. School districts having from one hundred fifty-seven (157) to four hundred forty-four (444) pupils, inclusive, in average daily attendance, one (1) classroom teacher unit for each twenty-four (24) pupils, or a fractional part thereof in excess of one-half ( $\frac{1}{2}$ );

f. School districts having from four hundred forty-five (445) pupils to four hundred eighty-seven (487) pupils, inclusive, in average daily attendance, nineteen (19) classroom teacher units;

g. School districts having from four hundred eighty-eight (488) to one thousand, five hundred twelve (1,512) pupils, inclusive, in average daily attendance, one (1) classroom teacher unit for each twenty-five (25) pupils, or a fractional part thereof in excess of one-half ( $\frac{1}{2}$ );

h. School districts having from one thousand, five hundred thirteen (1,513) to one thousand, five hundred ninety-nine (1,599) pupils, inclusive, in average daily attendance, sixty-one (61) classroom teacher units;

i. School districts having one thousand, six hundred (1,600) or more pupils in average daily attendance, one (1) classroom teacher unit for each twenty-six (26) pupils, or a fractional part thereof in excess of one-half ( $\frac{1}{2}$ ).

**(2) Vocational Teacher Units.** Vocational teacher professional units for each school district, separate for whites and separate for negroes, shall be determined and teachers allotted in the following manner:

a. Each four-year accredited high school shall be eligible, subject to the provisions of the State Plan for Vocational Education as approved by the State Board of Vocational Education, for two (2) vocational teacher units to teach one or more vocational programs in agriculture, home economics, trades and industries, or distributive education, provided there is a need thereof, and provided the programs shall have been approved by the State Commissioner of Education.

b. Additional vocational teacher units for four-year accredited high schools may be allotted according to needs determined by a survey of the community and approved by the State Commissioner of Education.

c. Each unaccredited high school and each high school classified lower than a four-year high school may be eligible, according to the provisions of said State Plan for Vocational Education, for vocational teacher units to teach one or more vocational programs in agriculture, home economics, trades and industries, and distributive education in the number to be determined by the State Commissioner of Education.

d. Provided that a district, having either an accredited or unaccredited high school, which qualifies, according to said State Plan for Vocational Education, for less than one (1) vocational agriculture, home economics, trades and industries, or distributive education teacher unit, may be allotted, by the State Commissioner of Education, a fractional part of a nine-months vocational teacher professional unit. A fractional part of a vocational teacher professional unit shall entitle a district to employ a part-time vocational teacher or to assign a classroom teacher to serve as part-time vocational teacher.

Provided that the vocational teacher unit allotments, except classroom teachers who also serve as part-time vocational teachers, shall be made in addition to other professional unit allotments.

**(3) Special Service Teacher Units.** Special Service teacher professional units for each school district, separate for whites and separate for negroes, shall be determined and teachers allotted in the following manner:

a. Such allotments shall be based upon the number of approved classroom teacher units, separate for whites and separate for negroes.

b. Districts which have twenty (20) or more approved classroom teacher units shall be eligible for one (1) special service teacher unit for each twenty (20) classroom teacher units. (No credit for fractions).

c. Districts not eligible for a full special service teacher unit may enter, by vote of their respective boards of trustees, into one cooperative agreement to provide special service teachers, as prescribed in paragraph

(b) of this subsection, to be recommended and supervised by the County School Superintendent, and employed by the County School Board. The State Commissioner of Education shall, upon certification of such agreement by the County Superintendent of Schools, allot to each district party to such agreement a fractional part of a special service teacher unit, said fraction to be not greater than the number of approved classroom teacher units for that district divided by twenty (20).

d. Provided that school districts may choose from the five types of special service teacher units listed in Section 2 of Article II of this Act, sub-section A-3,<sup>3</sup> the number of each classification that it desires, to the extent of total eligibility for such units and the allocation of special service teacher units shall not preclude the assignment of classroom teachers to special service duties. The State Commissioner of Education shall establish qualifications of special service teachers and subsequent to the 1949-1950 school year such qualifications shall be subject to regulations made by the State Board of Education.

Provided further, that the special service teacher unit allotments provided for herein shall be made in addition to other professional unit allotments.

**(4) Exceptional Children Teacher Units.** Exceptional children teacher units, special or convalescent, for each school district, separate for whites and separate for negroes, shall be allotted as follows:

a. It is the purpose of this allotment of exceptional children teacher units to provide competent educational services for the exceptional children in Texas between and including the ages of six (6) and seventeen (17), for whom the regular school facilities are inadequate or not available.

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 purpose of this Act, the term "exceptional children" shall not include those children who are eligible for the State Schools for the Deaf, the Blind or the Feebleminded. The term "special services" may be interpreted to mean transportation; special teaching in the public school curriculum; corrective teaching, such as lip reading, speech correction, sight conservation, and corrective health habits; and the provision of special seats, books and teaching supplies, and equipment required for the instruction of exceptional children.

b. In any school district where the parents of the required number 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 such Board to request the State Commissioner of Education to cooperate in the establishment of such class or classes. The State Commissioner of Education shall allot for the 1949-1950 school year to such district such number of exceptional children teacher units as shall be necessary to operate special or convalescent classes for exceptional children within said district, provided that subsequent to 1949-1950 such allotments shall be pursuant to rules and regulations adopted by the State Board of Education. Provided that districts not eligible for a full exceptional children teacher unit may enter, by vote of their respective Boards of Trustees, into one cooperative agreement to provide exceptional children teacher units, such units to be approved by the County School Superintendent. The teacher for an exceptional children teacher unit shall be employed by the Board of Trustees of the district in which the class is to be taught, and such unit shall be administered

solely and exclusively by the Superintendent of such district. The State Commissioner of Education upon certification of such agreement by the County School Superintendent, shall allot to each district party to such agreement a fractional part of an exceptional children teacher unit, provided that the sum of such units so allotted shall not be greater than the number of units for which said district would be eligible provided no cooperative agreement existed.

c. There is hereby created in the State Department of Education a Division of Special Education. There shall be appointed by the State Commissioner of Education a Director for the Division of Special Education. No person shall be employed to teach any class for exceptional children as defined in this Act unless he possesses a valid teachers certificate and, in addition thereto, such training as the State Commissioner of Education may require.

Provided that allotments for exceptional children teacher units provided for herein shall be made in addition to other professional unit allotments.

**5. Supervisor and/or Counsellor Units.** Supervisor and/or Counsellor professional units for each school district, separate for whites and separate for negroes, shall be determined and supervisor and/or counsellor units allotted in the following manner:

a. One (1) supervisor or counsellor unit for the first forty (40) classroom teacher units and one (1) supervisor or counsellor unit for each additional fifty (50) classroom teacher units, or major fractional part thereof. If a district is eligible for one such unit, the district may employ for such unit either a supervisor or a counsellor, but not both. If a district is eligible for two or more such units, the district may employ supervisors only, counsellors only, or a combination of the two to the extent of total eligibility. The State Commissioner of Education shall establish qualifications of supervisors and counsellors and subsequent to the 1949-1950 school year such qualifications shall be subject to regulations made by the State Board of Education.

b. Districts having fewer than forty (40) classroom teacher units may enter, by vote of their respective Boards of Trustees, into one cooperative agreement to provide supervisors and/or counsellors to be recommended and supervised by the County School Superintendent and employed by the County School Board. Under such agreements the combined classroom teacher units of the cooperating districts shall be used in calculating eligibility for supervisor and/or counsellor units, provided that if the county employs a supervisor from the county administrative funds, forty (40) classroom teacher units shall be deducted from the combined total. The State Commissioner of Education shall, upon certification of such agreement by the County School Superintendent, allot to each district party to such agreement a fractional part of a supervisor or counsellor unit, said fraction to be not greater than the number of approved classroom teacher units for that district divided by forty (40).

Allotments of supervisor or counsellor units shall be made in addition to other professional unit allotments.

**6. Principal Units.** Principal units shall be of two types, to-wit: (1) Full-time principal units; and (2) Part-time principal units. A part-time principal unit shall entitle a district to assign a classroom teacher to serve as a part-time principal and to receive an additional salary allowance therefor as herein provided. Principal units for each school district, separate for whites and separate for negroes, shall be determined and allotted in the following manner:

a. No district having fewer than three (3) approved classroom teacher units shall be eligible for a principal allotment.



b. In districts having from three (3) to nineteen (19) classroom teacher units and not having an accredited four-year high school, one part-time principal unit shall be allotted.

c. In a district having from nine (9) to nineteen (19) classroom teacher units and having a four-year accredited high school, two (2) part-time principal units; provided, however, additional part-time principal units shall be allotted, if necessary, to the extent that at least one part-time principal will be available for each campus on which a school with more than two (2) classroom teachers is operated in the district.

d. In districts having twenty (20) or more approved classroom teacher units, there shall be allotted one (1) full-time principal unit for the first twenty (20) classroom teacher units, and one (1) full-time principal unit for each additional thirty (30) classroom teacher units. In computing allotments for principals, no consideration shall be given to fractions.

In addition to full-time principal unit allowances provided in this subsection, one (1) of the first twenty (20) classroom teachers, and one (1) of each additional thirty (30) classroom teachers, in addition to part-time classroom duties, may be designated to serve as part-time principal and receive an additional allowance therefor as hereinafter provided; however, additional part-time principal units shall be allotted, if necessary, to the extent that at least one full-time principal or part-time principal will be available for each campus on which a school with more than two (2) classroom teachers is operated in the district.

Provided that the principal unit allotments as hereinabove provided shall be based upon the number of approved classroom teacher units, separate for whites and separate for negroes.

Allotments of full-time principal units provided for herein shall be made in addition to other professional unit allotments.

**7. Superintendent Units.** Superintendent units for each school district shall be determined and allotted in the following manner:

a. No district which has neither a four-year white accredited high school nor a four-year negro accredited high school shall be eligible for a superintendent allotment.

b. A district having one or more four-year accredited high schools, either white or negro, shall be eligible for one (1) superintendent allotment. Superintendents shall serve the entire school district, both its whites and negroes.

Allotments for superintendent units as provided for herein shall be made in addition to other professional unit allotments. Acts 1949, 51st Leg., p. 625, ch. 334, art. IV.

<sup>1</sup> Articles 2922—11 et seq., 634(B).

<sup>2</sup> Article 2922—13.

<sup>3</sup> Article 2922—13.

## 2922—14. Salaries

Section 1. Beginning with the school year of 1949-50, the Board of Trustees of each and every school district in the State of Texas shall pay their teachers, both whites and negroes, upon a salary schedule providing a minimum beginning base salary plus increments above the minimum for additional experience in teaching as hereinafter prescribed. The salaries fixed herein shall be regarded as minimum salaries only and each district may supplement such salaries.

All teachers and administrators shall have a valid Texas certificate. Salary increments for college training shall be based upon training received at a college recognized by the State Commissioner of Education for the preparation of teachers.

Any law or parts of laws in conflict with Section I of Article IV of this Act are hereby repealed.

Provided that payment of at least the minimum salary schedule provided herein shall be a condition precedent: (1) to a school's participation in the Foundation School Fund; and (2) to its name being placed or continued upon the official list of affiliated or accredited schools. The annual salaries as provided herein may be paid in twelve (12) payments at the discretion of the local school boards.

The salary of each professional position listed in Section 2 of Article II of this Act<sup>1</sup> shall be determined as follows:

1. **Classroom teachers.** The annual salary of classroom teachers shall be the monthly base salary, plus increments, multiplied by nine (9); provided that if the length of the school term is less than nine (9) months, the annual salary shall be such base salary and increments multiplied by the number of months in the term.

a. The minimum base pay for a classroom teacher who holds a Bachelor's Degree and no higher degree, shall be Two Hundred Sixty-seven (\$267.00) Dollars per month. Six (\$6.00) Dollars per month shall be added for each year of teaching experience not to exceed Seventy-two (\$72.00) Dollars per month.

b. The minimum base pay for a classroom teacher who has less than two (2) years of college training shall be One Hundred Fifty-five (\$155.00) Dollars per month. Six (\$6.00) Dollars per month shall be added for each year of teaching experience not to exceed Seventy-two (\$72.00) Dollars per month.

c. The minimum base pay for a classroom teacher who has two (2) but less than three (3) years of college training shall be One Hundred Eighty (\$180.00) Dollars per month. Six (\$6.00) Dollars per month shall be added for each year of teaching experience not to exceed Seventy-two (\$72.00) Dollars per month.

d. The minimum base pay for a classroom teacher who has three (3) or more years of college training but who does not hold a Bachelor's Degree shall be Two Hundred Five (\$205.00) Dollars per month. Six (\$6.00) Dollars per month shall be added for each year of teaching experience not to exceed Seventy-two (\$72.00) Dollars per month.

e. The minimum monthly base pay for a classroom teacher who holds a Master's Degree shall be Two Hundred Ninety-two (\$292.00) Dollars per month. Six (\$6.00) Dollars per month shall be added for each year of teaching experience not to exceed One Hundred Fifty-six (\$156.00) Dollars per month.

2. **Vocational Teachers.** a. The minimum monthly base pay and increments for teaching experience for a vocational teacher conducting a nine (9), ten (10), or twelve (12) months vocational program approved by the State Commissioner of Education shall be the same as that of a classroom teacher as provided herein; provided that vocational trade and industrial teachers having qualifications approved by the State Board of Vocational Education shall be eligible for the minimum monthly base pay for a classroom teacher who holds a recognized Bachelor's Degree and a valid teacher's certificate.

The annual salary of vocational teachers shall be the monthly base salary, plus increments, multiplied by nine (9), ten (10), or twelve (12), as applicable.

Provided that the minimum salaries hereinabove prescribed for vocational teachers mean total salaries of such teacher to be received for public school instruction, whether they be paid out of State and/or Federal funds.

Expenses where allowable shall be paid from a separate Vocational Fund. No such expense shall be counted as part of the cost of the minimum Foundation School Program.

**3. Special Service Teachers.** The minimum monthly base salary and increments for teaching experience for special service teachers shall be the same as those provided herein for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by nine (9).

Provided that a registered nurse shall be considered, for the purpose of computing salaries, as having a Bachelor's Degree; and that a librarian having a recognized certificate or degree based upon five (5) years of recognized college training therefor shall be considered as having a Master's Degree.

**4. Teachers of Exceptional Children.** The minimum monthly base salary and increments for teaching experience for teachers of exceptional children shall be the same as that prescribed in this Act<sup>2</sup> for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by nine (9), except that in cases where the State Commissioner of Education approves such a unit for more than nine (9) months, the annual salary shall be the monthly base salary plus increments multiplied by the number of months approved by the State Commissioner of Education.

**5. Supervisors and/or Counsellors.** The minimum monthly base salary and increments for teaching experience for supervisors or counsellors shall be the same as that prescribed in this Act for classroom teachers, to which shall be added Thirty (\$30.00) Dollars per month. The annual salary for such supervisors or counsellors shall be the monthly base salary, plus increments, multiplied by ten (10).

**6. Principals.** a. Principals in Districts Having no Accredited Two or Four Year High School.

In such a district having from three (3) to five (5) classroom teacher units, inclusive, the designated classroom teacher who serves as part-time principal shall be paid an additional monthly salary allowance of Four (\$4.00) Dollars per month for each classroom teacher unit, and the annual salary of such part-time principal shall be the monthly base salary plus increments multiplied by nine (9); provided that if the length of the school term is less than nine (9) months, the annual salary shall be such base salary and increments multiplied by the number of months in the term.

In such a district having from six (6) to nineteen (19) classroom teacher units, inclusive, the designated classroom teacher who serves as part-time principal shall be paid an additional monthly salary allowance of Four (\$4.00) Dollars per month for each classroom teacher unit, but not to exceed Forty-eight (\$48.00) Dollars per month, and the annual salary of such part-time principal shall be the monthly base salary plus increments multiplied by ten (10); provided that if the length of the school term is less than nine (9) months the annual salary shall be such base salary and increments multiplied by the number of months in the term.

In such a district having twenty (20) or more classroom teacher units, the designated classroom teachers who serve as part-time principals shall be paid an additional monthly salary allowance of Forty-eight (\$48.00) Dollars per month, and the annual salary of such part-time principal shall be the monthly base salary plus increments multiplied by nine (9).

In such a district having twenty (20) or more classroom teacher units a full-time principal shall be paid an additional monthly salary allowance of Fifty (\$50.00) Dollars per month, and the annual salary of such full-

time principal shall be the monthly base salary plus increments, multiplied by ten (10), except that the annual salary of one (1) such full-time principal shall be the monthly base salary plus increments multiplied by twelve (12).

b. Principals in Districts Having a Two-Year Accredited High School, But No Four-Year Accredited High School.

In such a district having nineteen (19) or fewer classroom teachers the designated classroom teacher who serves as part-time principal shall be paid an additional monthly salary allowance of Forty (\$40.00) Dollars per month, and the annual salary of such part-time principal shall be the monthly base salary plus increments multiplied by twelve (12).

In such a district having twenty (20) or more classroom teachers, the designated classroom teachers who serve as part-time principals shall be paid an additional monthly salary allowance of Forty-eight (\$48.00) Dollars per month, and the annual salary of such part-time principals shall be the base salary plus increments multiplied by nine (9).

In such a district having from twenty (20) to twenty-nine (29) classroom teacher units, inclusive, the full-time principal shall be paid an additional monthly salary allowance of Sixty (\$60.00) Dollars per month and the annual salary of such full-time principal shall be the monthly base salary plus increments multiplied by twelve (12).

In such a district having from thirty (30) to forty-nine (49) classroom teachers, the full-time principal shall be paid an additional monthly salary allowance of Eighty (\$80.00) Dollars per month, and the annual salary of such full-time principal shall be the monthly base pay plus increments multiplied by twelve (12).

In such a district having fifty (50) or more teachers, the full-time principals shall be paid an additional monthly salary allowance of Fifty (\$50.00) Dollars per month, and the annual salary of such full-time principals shall be the monthly base salary plus increments multiplied by ten (10), except that one (1) of such principals shall receive an additional monthly salary allowance of One Hundred (\$100.00) Dollars per month instead of Fifty (\$50.00) Dollars per month, and the annual salary of such principal shall be the monthly base salary plus increments multiplied by twelve (12).

c. Principals in Districts Having a Four-Year Accredited High School and Having From Nine to Nineteen Classroom Teacher Units. In such a district the teacher who serves as the elementary principal shall receive an additional allowance of Four (\$4.00) Dollars per month for each teacher under his supervision, but not to exceed Forty-eight (\$48.00) Dollars per month, and the classroom teacher serving as part-time high school principal shall be paid an additional salary allowance of Forty-eight (\$48.00) Dollars per month, and the annual salary of such part-time elementary and high school principals shall be the monthly base salary plus increments multiplied by nine (9).

d. Principals in Districts Having a Four-Year Accredited High School and Having Twenty or More Classroom Teachers. In such a district the classroom teachers who serve as part-time principals shall receive an additional salary allowance of Forty-eight (\$48.00) Dollars per month, and the annual salary of such part-time principals shall be the monthly base pay plus increments multiplied by nine (9).

In such a district the full-time principal shall receive an additional salary allowance of Fifty (\$50.00) Dollars per month, and the annual salary of such principals shall be the monthly base salary plus increments multiplied by ten (10), except that in school districts eligible under the terms of this Act for two (2) or more full-time principals, one-half of such full-time principals shall each receive as his annual salary the

monthly base salary plus increments multiplied by eleven (11). (No credit for fractions)

7. **Superintendents.** a. In districts having a four-year accredited high school and eligible for ten (10) or less classroom teacher units, whites and negroes combined, the minimum monthly base salary and increments for teaching experience for superintendents shall be the same as that prescribed in this Act for classroom teachers, to which shall be added Forty (\$40.00) Dollars per month; eleven (11) to nineteen (19) teachers, Sixty (\$60.00) Dollars per month; twenty (20) to twenty-nine (29) teachers, Eighty (\$80.00) Dollars per month; thirty (30) to forty-nine (49) teachers, One Hundred (\$100.00) Dollars per month; fifty (50) to seventy-five (75) teachers, One Hundred Twenty-five (\$125.00) Dollars per month; seventy-six (76) to one hundred (100) teachers, One Hundred Fifty (\$150.00) Dollars per month; one hundred one (101) to one hundred fifty (150) teachers, One Hundred Seventy-five (\$175.00) Dollars per month; one hundred fifty-one (151) to two hundred (200) teachers, Two Hundred (\$200.00) Dollars per month; two hundred one (201) to three hundred (300) teachers, Two Hundred Twenty-five (\$225.00) Dollars per month; three hundred (300) or more teachers, Two Hundred Fifty (\$250.00) Dollars per month.

b. The annual salary for superintendents shall be the monthly base salary, plus increments, multiplied by twelve (12).

**Total Cost of Professional Salaries.**

Sec. 2. The total cost of professional salaries of positions allowable for purposes of this Act shall be determined by application of the salary schedule to the total number of approved professional units, provided that such professional units are serviced by approved professional position employments. Acts 1949, 51st Leg., p. 625, ch. 334, art. IV.

<sup>1</sup> Article 2922—12.

<sup>2</sup> Articles 2922—11 et seq.

**Art. 2922—15. Services and operating costs**

Section 1. The total current operating cost for each school district, other than professional salaries and transportation, shall be based upon the number of approved classroom teacher units and such exceptional children teacher units as are utilized for convalescent classes, separate for whites and separate for negroes, and grants therefor shall be allotted and determined in the following manner:

a. Districts having from one (1) to seventy-four (74) such units shall be allotted the sum of Four Hundred (\$400.00) Dollars for each of said units.

b. Districts having from seventy-five (75) to eighty-four (84) such units shall be allotted the sum of Twenty-nine Thousand, Seven Hundred (\$29,700.00) Dollars.

c. Districts having eighty-five (85) or more such units shall be allotted the sum of Three Hundred Fifty (\$350.00) Dollars for each of said units.

**Services. Transportation.**

Sec. 2. The County Superintendents and County School Boards of the several counties of this State, subject to the approval of the State Commissioner of Education, are hereby authorized to annually set up the most economical system of transportation possible for the purpose of transporting pupils from their districts, and within their districts. The county shall be regarded as the unit and state warrants for transportation shall be made payable to a County School Transportation Fund in each county for the total transportation earned within the county to

the extent allowed under the provisions of this Act<sup>1</sup> and which shall not exceed the total actual approved cost thereof.

The total annual transportation cost allotment for each district shall be the lesser of the following:

a. Thirty-one and 50/100 (\$31.50) Dollars for nine (9) months transportation per public school pupil, or a proportionate part thereof if such pupil is not transported for nine (9) months; provided that all school districts in counties which have two (2) or more but less than three (3) enumerated scholastics per square mile, for the current year, shall receive Forty-five (\$45.00) Dollars for nine (9) months transportation per public school pupil, or a proportionate part thereof if such pupil is not transported for nine (9) months; provided further, that all school districts in counties which have one (1) or more but less than two (2) enumerated scholastics per square mile for the current year shall receive Forty-nine and 50/100 (\$49.50) Dollars for nine (9) months transportation per public school pupil, or a proportionate part thereof if such pupil is not transported for nine (9) months; provided further, that all school districts in counties which have less than one (1) scholastic per square mile for the current year shall receive Sixty-three (\$63.00) Dollars for nine (9) months transportation per public school pupil, or a proportionate part thereof if such pupil is not transported for nine (9) months.

b. The actual approved cost of transportation operation in the district, such cost to include bus payment reimbursements, bus driver salaries, and gasoline, oil, and repairs.

In no instance may transportation service allotments be made or granted for pupils transported who attend a grade in another school district, which grade is taught in such pupil's home school district unless the transfer of such pupil has been approved by the County School Board and the State Commissioner of Education.

Unless the County School Board certifies that there is a particular need therefor, and such certificate of duplicate service is approved by the State Commissioner of Education, no transportation aid shall be granted for a pupil being transported out of his home school district if two (2) or more districts are applying for transportation aid from such pupil's home district.

No transportation service allotments or aid shall be granted under any provisions of this Act unless the pupil so transported actually resides more than two (2) miles, measured by the nearest practical route, from the school attended and is transported in an approved bus over an approved route. Provided that in cities having public transportation, no child residing within the city limits of such city shall be eligible to be transported at State expense unless such child resides more than two (2) miles, measured by the nearest practical route, from public transportation service of such city.

Subject to regulations prescribed by the State Board of Education, it is further provided that transportation aid may be granted for pupils who are the children of employees attending from either the State Training School for Boys at Gatesville or State Training School for Girls at Gainesville, or any other State Eleemosynary Institutions.

County Boards of Trustees are hereby authorized to employ bus drivers, and the salary of no bus driver may be paid out of the County School Transportation Fund created herein unless such bus driver is so employed.

<sup>1</sup> Articles 2922—11 et seq., 634(B).

**Total cost of program**

**Sec. 4.** The sum of the approved salaries for professional positions, the current operating cost other than professional salaries and transportation, and cost of transportation service of each district, computed and determined in accordance with the provisions of this Act, shall constitute the total cost of the Foundation School Program proposed in this law. Acts 1949, 51st Leg., p. 625, ch. 334, art. V.

Section 3 of the article is published as art. 634(B).

**Art. 2922—16. Finances**

**Section 1.** The Foundation School Program established in this Act<sup>1</sup> shall be financed by:

- a. An equalized local school district effort to the extent hereinafter provided toward the support of this program;
- b. Distribution of the State and County Available School Funds on the basis of the number of scholastics; and
- c. Allocation to each local district a sum of State money appropriated for the purposes of this Act sufficient to finance the remaining costs of the Foundation School Program in that district computed and determined in accordance with the provisions of this Act.

<sup>1</sup> Articles 2922—11 et seq., 634(B).

**Total Local School Funds to be Charged to All School Districts in the State.**

**Sec. 2.** The sum of the amounts to be charged annually against the local school districts of the State toward such Foundation School Program shall be Forty-five Million (\$45,000,000.00) Dollars. The State Commissioner of Education, subject to the approval of the State Board of Education, shall assign each school district according to its taxpaying ability its proportionate part of such Forty-five Million (\$45,000,000.00) Dollars to be raised locally and applied towards the financing of its minimum foundation school program.

**Economic Index for Counties.**

**Sec. 3.** In determining the taxpaying ability of each school district, the State Commissioner of Education, subject to the approval of the State Board of Education, shall calculate an economic index of the financial ability of each county to support the Foundation School Program. The economic index of a county shall be calculated to approximate the percent of the total taxpaying ability in the State which is in a given county, and shall constitute for the purpose of this Act a measure of one county's ability to support schools in relation to the ability of other counties in the State. The economic index for each county shall be based upon and determined by the following weighted factors:

- a. Assessed valuation of the county—weighted by twenty (20);
- b. Scholastic population of the county—weighted by eight (8);
- c. Income for the county as measured by: Value added by manufacture, value of minerals produced, value of agricultural products, payrolls for retail establishments, payrolls for wholesale establishments, payrolls for service establishments weighted collectively by seventy-two (72).

The economic index determined for each county for the purposes of this Act shall be used for a period of four (4) years, beginning with the 1951-52 school year, and the State Commissioner of Education, subject to the approval of the State Board of Education, shall recompute a new

such economic index each four (4) years, taking such information from the most recently available official publications and reports of agencies of the State of Texas or the Federal Government. Provided that should there be a sudden marked decline in the economic activity in a county, an adjustment of the county's economic index may be made by the State Commissioner of Education, subject to the approval of the State Board of Education.

Provided, however, that for the school years 1949-1950 and 1950-1951, the economic index for each county shall be as follows:

Anderson, .363%; Andrews, .379%; Angelina, .277%; Aransas, .055%; Archer, .243%; Armstrong, .063%; Atascosa, .214%; Austin, .211%; Bailey, .128%; Bandera, .036%; Bastrop, .141%; Baylor, .112%; Bee, .201%; Bell, .361%; Bexar, 3.722%; Blanco, .037%; Borden, .032%; Bosque, .143%; Bowie, .358%; Brazoria, 1.583%; Brazos, .181%; Brewster, .103%; Briscoe, .062%; Brooks, .193%; Brown, .202%; Burleson, .105%; Burnet, .079%; Caldwell, .185%; Calhoun, .150%; Callahan, .103%; Cameron, .727%; Camp, .066%; Carson, .302%; Cass, .179%; Castro, .112%; Chambers, .549%; Cherokee, .250%; Childress, .141%; Clay, .227%; Cochran, .265%; Coke, .081%; Coleman, .207%; Collin, .374%; Collingsworth, .123%; Colorado, .277%; Comal, .174%; Comanche, .183%; Concho, .087%; Cooke, .455%; Coryell, .161%; Cottle, .094%; Crane, .328%; Crockett, .249%; Crosby, .151%; Culberson, .048%; Dallam, .123%; Dallas, 7.392%; Dawson, .230%; Deaf Smith, .225%; Delta, .082%; Denton, .317%; DeWitt, .246%; Dickens, .092%; Dimmitt, .099%; Donley, .104%; Duval, .653%; Eastland, .282%; Ector, 1.131%; Edwards, .054%; Ellis, .448%; El Paso, 1.245%; Erath, .159%; Falls, .222%; Fannin, .280%; Fayette, .247%; Fisher, .212%; Floyd, .166%; Foard, .079%; Fort Bend, .674%; Franklin, .190%; Freestone, .160%; Frio, .110%; Gaines, .379%; Galveston, 1.622%; Garza, .117%; Gillespie, .141%; Glasscock, .072%; Goliad, .145%; Gonzales, .169%; Gray, .774%; Grayson, .718%; Gregg, 3.362%; Grimes, .159%; Guadalupe, .297%; Hale, .300%; Hall, .138%; Hamilton, .129%; Hansford, .117%; Hardeman, .161%; Hardin, .231%; Harris, 10.403%; Harrison, .368%; Hartley, .068%; Haskell, .170%; Hays, .107%; Hemphill, .082%; Henderson, .277%; Hidalgo, .973%; Hill, .332%; Hockley, .629%; Hood, .053%; Hopkins, .285%; Houston, .185%; Howard, .407%; Hudspeth, .068%; Hunt, .387%; Hutchinson, .793%; Irion, .054%; Jack, .187%; Jackson, .586%; Jasper, .131%; Jeff Davis, .050%; Jefferson, 4.132%; Jim Hogg, .128%; Jim Wells, .733%; Johnson, .275%; Jones, .393%; Karnes, .208%; Kaufman, .288%; Kendall, .058%; Kenedy, .022%; Kent, .046%; Kerr, .106%; Kimble, .067%; King, .045%; Kinney, .051%; Kleberg, .222%; Knox, .118%; Lamar, .369%; Lamb, .285%; Lampasas, .083%; La Salle, .075%; Lavaca, .187%; Lee, .087%; Leon, .102%; Liberty, .417%; Limestone, .228%; Lipscomb, .094%; Live Oak, .101%; Llano, .074%; Loving, .015%; Lubbock, .728%; Lynn, .211%; Madison, .069%; Marion, .113%; Martin, .074%; Mason, .086%; Matagorda, .442%; Maverick, .117%; McCulloch, .157%; McLennan, 1.183%; McMullen, .059%; Medina, .135%; Menard, .065%; Midland, .135%; Milam, .228%; Mills, .069%; Mitchell, .153%; Montague, .311%; Montgomery, .943%; Moore, .245%; Morris, .048%; Motley, .079%; Nacogdoches, .233%; Navarro, .401%; Newton, .112%; Nolan, .236%; Nueces, 2.195%; Ochiltree, .126%; Oldham, .075%; Orange, .254%; Palo Pinto, .165%; Panola, .262%; Parker, .173%; Parmer, .146%; Pecos, .678%; Polk, .268%; Potter, .748%; Presidio, .091%; Rains, .032%; Randall, .137%; Reagan, .146%; Real, .019%; Red River, .175%; Reeves, .101%; Refugio, .737%; Roberts, .053%; Robertson, .173%; Rockwall, .059%; Runnels, .180%; Rusk, 2.450%; Sabine, .042%; San Augustine, .049%; San Jacinto,



.074%; San Patricio, .671%; San Saba, .111%; Schleicher, .066%; Scurry, .126%; Shackelford, .153%; Shelby, .120%; Sherman, .119%; Smith, 772%; Somervell, .020%; Starr, .282%; Stephens, .200%; Sterling, .043%; Stonewall, .059%; Sutton, .062%; Swisher, .112%; Tarrant, 3.447%; Taylor, .412%; Terrell, .054%; Terry, .183%; Throckmorton, .088%; Titus, .298%; Tom Green, .396%; Travis, 1.103%; Trinity, .069%; Tyler, .094%; Upshur, .444%; Upton, .300%; Uvalde, .135%; Val Verde, .173%; Van Zandt, .555%; Victoria, .471%; Walker, .107%; Waller, .260%; Ward, .357%; Washington, .187%; Webb, .449%; Wharton, .857%; Wheeler, .167%; Wichita, 1.010%; Wilbarger, .371%; Willy, .215%; Williamson, .368%; Wilson, .141%; Winkler, .654%; Wise, .139%; Wood, .618%; Yoakum, .578%; Young, .289%; Zapata, .064%; Zavala, .102%.

**Local Funds Available in Each County.**

Sec. 4. The State Commissioner of Education shall calculate and determine the total sum of local funds that the school districts of a county shall be assigned to contribute toward the total cost of this Foundation School Program by multiplying Forty-Five Million (\$45,000,000.00) Dollars by the economic index determined for each county. The product shall be regarded as the local funds available in each respective county toward the support of the Foundation School Program, and shall be used in calculating the portion of said amount which shall be assigned to each school district in the county.

**Local Funds to be Charged to Each District.**

Sec. 5. The State Commissioner of Education shall determine the amount of local funds to be charged to each school district and used therein toward the support of the Foundation School Program, which amount shall be calculated as follows:

Divide the state and county assessed valuation of all property in the county subject to school district taxation for the next preceding school year into the State and county assessed valuation of the district for the next preceding school year, finding the district's percentage of the county valuation. Multiply the district's percentage of the county valuation by the amount of funds assigned to all of the districts in the county. The product shall be the amount of local funds that the district shall be assigned to raise toward the financing of its Foundation School Program.

Provided, however, that in any district containing State University-owned land, State-owned prison land, Federal-owned forestry land, Federal-owned military reservations or Federal-owned Indian reservations, the amount assigned to such school district shall be reduced in the proportion that the area included in the above-named classifications bears to the total area of the district. Provided further, that no local fund assignment shall be charged to the Boys Ranch Independent School District in Oldham County, Texas.

Provided that if the revenue that would be derived from the legal maximum local maintenance school tax is less than the amount that is assigned to a school district according to the economic index, and if such property valuation is not less than said property is valued for State and county purposes, such lesser amount shall be the amount assigned to be raised by such school district.

Provided further, that if a school district is unable or for any reason fails to collect local maintenance school funds equal to the amount assigned to it as determined by this Act, such failure will not make the district ineligible for full State per capita apportionment and full Founda-

tion School Fund grants, but the amount as determined by this Act shall be charged against the district as budgetary receipts whether such amount is collected or not.

Provided that the amount of local funds assigned to a contract district, as provided for in Article III of this Act,<sup>1</sup> shall be assigned to the receiving district and all local taxes, except those required for the interest and sinking fund, shall be credited as collected to the receiving district.

If a district other than such a contract district has no school, the amount of local funds assigned to such district shall be assigned for the current year to the receiving district in which such children attend school and the local tax funds collected shall be transferred to such receiving district; provided that if pupils from such a district attend schools in more than one receiving district, such local fund assignments and local tax funds shall be divided for the current year between such receiving districts proportionately according to the number of transfers to each receiving district.

If any school district which has a budgetary income, as provided in Article VI, Section 1, Subsections a and b,<sup>2</sup> in excess of the amount needed to operate a minimum foundation school program as provided herein and transfers pupils to another district, such sending district shall pay a proportionate part of such excess based upon the ratio of the number transferred to the number of enumerated scholastics, to the district or districts to which such pupils are transferred, and such amount shall be charged to the receiving school.

The sum of the amounts assigned to the several portions of a county-line school district shall be the amount assigned to be raised by such district toward the financing of its foundation school program.

No school district shall be eligible to receive foundation school funds authorized herein which lowers its total school tax rate within two (2) years of the effective date of this Act, if the reduction of such tax rate would reduce the local maintenance tax receipts, such district to be ineligible for a period of one (1) year; provided, however, that any district whose maintenance and bond tax rates total more than One and 50/100 (\$1.50) Dollars per One Hundred (\$100.00) Dollars school district assessed valuation may reduce the total tax rate to One and 50/100 (\$1.50) Dollars per One Hundred (\$100.00) Dollars school district assessed valuation.

The County Tax Assessor-Collector in each county, in addition to his other duties prescribed by law, shall certify to the State Commissioner of Education in Austin, Texas, not later than December 1st of each year, the following information:

(1) The assessed valuation, on a State and county valuation basis, of all property subject to school district taxation in each school district or portion of school district in such county, and the total assessed valuation of all property subject to school district taxation in the county;

(2) The total area of each school district; and

(3) The area within each school district comprised of State University-owned land, State-owned prison land, Federal-owned forestry land, Federal-owned military reservations, and Federal-owned Indian reservations.

Should any County Tax Assessor-Collector fail to submit such certificates to the State Commissioner of Education as provided for herein, the State Comptroller of Public Accounts is hereby directed to submit such information, estimating when necessary. As soon after the receipt of such certificates as practicable, and prior to the time that the respective tax rates for the school districts of the county have been set, the

State Commissioner of Education shall notify each school district as to the amount of local funds that such district is assigned to raise for the succeeding school year.

If there has been a marked increase or decrease in the assessed valuation of a school district within a county, and if the County School Board certifies that the use of the county and school district valuations for the preceding year in determining local fund assignments to the school districts in the county would be inequitable, and recommends a different distribution of the county total than that made by the State Commissioner of Education, such recommendations, subject to the approval of said Commissioner, shall become and be the lawful local fund assignments to such districts.

Provided, however, that in determining the amount of local funds to be assigned to the respective school districts for the 1949-50 school year, the State Comptroller of Public Accounts is hereby directed to submit to the State Commissioner of Education the following information:

(1) The assessed valuation, on a State and county valuation basis, of each school district or portion of school district in each county, giving the total assessed valuation of all property subject to school district taxation of the county;

(2) The total area of each school district; and

(3) The area within each school district comprised of State University-owned land, State-owned prison land, Federal-owned forestry land, Federal-owned military reservations, and Federal-owned Indian reservations, such information to be submitted to said Commissioner not later than forty-five (45) days after the effective date of this Act. As soon after the receipt of such certificates as practicable, said Commissioner shall notify each school district as to the amount of local funds that such district will be assigned to raise for the 1949-50 school year.

Provided further, that any local maintenance funds in excess of the amount assigned to a district as determined by this Section may be expended for any lawful school purpose or it may be carried over as a balance into the next school year. Acts 1949, 51st Leg., p. 625, ch. 334, art. VI.

<sup>1</sup> Article 2922—13.

<sup>2</sup> Article 2922—16.

Foundation school fund, see art. 7083a.

#### Art. 2922—17. Private or parochial schools

No provision of this Act<sup>1</sup> shall be interpreted inimically to the status that was heretofore enjoyed by the private or parochial schools operating in the State of Texas that they, the graduates and staff, shall receive credit as in the past upon their capacities to meet the requirements of the high school. Acts 1949, 51st Leg., p. 625, ch. 334, art. VII.

<sup>1</sup> Articles 2922—11 et seq., 634(B).

#### Art. 2922—18. Consolidation and addition of territory

Within thirty (30) days from the effective date of this Act,<sup>1</sup> the County Board of Trustees of the several counties of the State are hereby authorized and required to consolidate by order of said Board each dormant school district within the county (as herein defined) with an adjoining district or districts. The term "dormant" as used herein shall mean any school district that fails, for any two (2) successive years subsequent to 1946-1947 school year, to operate a school in the district for the race having the greater number of enumerated scholastics in the district. The Board of Trustees for the district with which such dormant school district is consolidated shall continue to serve, and be, the Board of Trustees

for the new district. In each such case, the consolidation order of the County Board of Trustees shall define by legal boundary description the territory of the new district as so enlarged and extended, and said order, including the description of the district, shall be recorded in the minutes of the County Board of Trustees and otherwise as provided by law. Elections shall be held in such consolidated districts for the assumption of outstanding bonds, if any, for the levying of taxes therefor, and for the levying of a local maintenance tax; said elections to be ordered and held as now provided by law.

If a countyline district is or becomes dormant, as herein defined, the provisions of this Act shall apply and be followed by the several counties affected to the extent of the territory in each respective county.

It is hereby declared to be the intention of the Legislature that all property subject to school district taxation within the State of Texas be included within the limits of a school district and that a proper and proportionate tax be paid thereon for school purposes. Within thirty (30) days from the effective date of this Act, and at any time that it may be determined there is territory located in a county and not within the described limits of a school district, the County Board of Trustees of such county are hereby authorized and required to add such territory to an adjoining district or districts and the provisions herein made with reference to recording and defining the area of the new district thus enlarged, with reference to assumption of bonds, authorization of a tax therefor, and for a local maintenance tax, shall be followed in all such cases.

The provisions herein for the consolidation of school districts by order of the County Board of Trustees shall be applicable only in the instances and circumstances herein enumerated, and shall not be construed to repeal, supersede or limit any existing statute providing other methods for school district consolidation and annexation. Acts 1949, 51st Leg., p. 625, ch. 334, art. VIII.

<sup>1</sup> Articles 2922—11 et seq., 634(B).

#### Art. 2922—19. Appeals to court

Any person, county or school district aggrieved by any action of the Central Education Agency may appeal to a court of competent jurisdiction in Travis County, Texas. Such appeals shall be taken by serving the Commissioner of Education with citation duly issued by the Clerk of the Court, and the same shall be served in the manner provided by law in the service of citations in suits of a civil nature, and at the expiration of twenty (20) days after the service of said citation, the said cause shall thereupon stand for trial, and such trial shall include a determination of all issues, both law and fact. Such notice of appeal, or citation, shall state the action from which the appeal is taken, and if the appeal is from an order of the Board, stating such order or the part thereof from which the appeal is taken. All members of the Board who shall incur expense on account of the trial of any proceeding in District Court incident to appeal from actions of the Board, shall receive the necessary and proper expenses, including traveling expenses incident thereto, same to be paid by the State in the same manner and by the same proceeding as other expenditures are authorized. Acts 1949, 51st Leg., p. 625, ch. 334, art. IX.

#### Art. 2922—20. Duties of state boards and officers

It shall be the duty of the State Board of Education, State Board of Vocational Education and the State Commissioner of Education to take such action, require such reports, and to make such rules and regulations, not inconsistent with the terms of this Act, as may be necessary to carry

out the provisions of this Act.<sup>1</sup> The State Commissioner of Education shall determine annually, beginning for the 1949-1950 school year:

(1) the amount of money necessary to operate a Foundation School Program in each school district, as provided in this Act;

(2) the amount of local funds to be assigned and charged to each school district as provided in this Act; and

(3) the per capita apportionment from State and County Available School Funds available to each school district.

Said Commissioner shall then grant, subject to the provisions of this Act, to each school district from the appropriation to the Foundation School Fund the amount of funds necessary to provide the difference between item (1) in the preceding sentence and the sum of items (2) and (3) in the preceding sentence. Said Commissioner shall approve warrants to each school district totaling the amount of such grant. Warrants for all money expended according to the provisions of this Act shall be approved and transmitted to treasurers of depositories of school districts in the same manner as warrants for State apportionment are now transmitted.

Provided, however, that from and after the effective date of this Act and until the State Board of Education shall have been elected and the State Commissioner of Education shall have been appointed and qualified, as provided in Senate Bill No. 115, Acts of the 51st Legislature of the State of Texas,<sup>2</sup> the State Auditor shall take over and perform all of the duties herein assigned to the State Commissioner of Education and is hereby authorized to do and perform all acts necessary to put this Act into effect, and to operate and administer the same. Acts 1949, 51st Leg., p. 625, ch. 334, art. X.

<sup>1</sup> Articles 2922—11 et seq., 634(B).

<sup>2</sup> Articles 2654—1 et seq.

#### Art. 2922—21. Offenses

There is hereby appropriated out of the General Revenue Fund of the State Treasury, not otherwise appropriated, the sum of Ninety-six Thousand, Two Hundred Thirty (\$96,230.00) Dollars to be expended by the State Auditor for the purpose of carrying out the provisions of this Act. The State Auditor shall have full authority to employ all necessary personnel for the purpose of carrying out the provisions of this Act, provided that full reports shall be made to the Legislative Audit Committee of the State of Texas.

In carrying out the provisions of this Act, the State Board of Education, and all State Departments, school officials and employees, are hereby directed to furnish to the State Auditor such reports, records and other information as he may require in carrying out the provisions of this Act. Acts 1949, 51st Leg., p. 625, ch. 334, art. X.

Section 1. Any person who shall confiscate, misappropriate or convert moneys appropriated to the Foundation School Fund to carry out the purposes of this Act after such moneys are received by the school district or County Board of School Trustees in accordance with the terms hereof, shall be guilty of a felony and upon conviction be punished by confinement in the State Penitentiary for any term of years not less than one (1) nor more than five (5). Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified, any record, form, report or budget required under this Act,<sup>1</sup> or the rules of the State officials charged with the enforcement of this Act, in any attempt to defraud the State or its school system as a result of such Act, shall be guilty of a felony, and upon conviction shall be punished by confinement in the State

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

Penitentiary for any term of years not less than one (1) nor more than five (5). Provided that such proceedings shall be instituted by the proper District or County Attorney in accordance with Article 339, Revised Civil Statutes, or any other law appertaining thereto. Should any change or error in the records, forms, reports or budgets result in any school district receiving from the Foundation School Fund more or less than it would have been entitled to receive had said records been correct, the State Commissioner of Education shall correct such error, and so far as practicable shall adjust the payment in such a manner that the amount to which such district was correctly eligible shall be paid.

<sup>1</sup> Articles 2922—11 et seq., 634(B).

#### Violation of Provisions.

Sec. 2. Any person, including any county superintendent or ex-officio county superintendent, school bus driver, school trustee, or any district superintendent, principal or other administrative personnel, or teacher of a school district, or its treasurer or proper disbursing officer, who violates any of the provisions of this Act other than those to which Section 1 of Article XI of this Act<sup>1</sup> applies, shall be guilty of a misdemeanor and shall be fined not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars. Provided that such proceedings shall be instituted by the proper District or County Attorney upon receipt of information from the State Commissioner of Education.

Provided further, that if any person shall knowingly submit incorrect information to the Central Education Agency in any sworn report required by this Act or by the rules of the Agency or the State Commissioner of Education for the honest administration of this Act, such offenses shall constitute false swearing and shall be punished as prescribed by law for that offense. Acts 1949, 51st Leg., p. 625, ch. 334, art. XI.

<sup>1</sup> Article 2922—21.

#### Art. 2922—22. Repealing and constitutional clause

All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict. If any clause, sentence, paragraph, section or sub-section of this Act<sup>1</sup> is declared unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Act shall nevertheless remain in full force and effect. Acts 1949, 51st Leg., p. 625, ch. 334, § XII.

<sup>1</sup> Articles 2922—11 et seq., 634(B).

## TITLE 50—ELECTIONS

## CHAPTER FIVE—SUFFRAGE

## Art.

2956a. Absentee ballots [New].  
2977a. Inoperative.

## Art. 2955. 2939 Qualifications for voting

Registration receipt in place of poll tax receipt, see art. 2977a.

## Art. 2956a. Absentee ballots

The appropriate provisions of this Act<sup>1</sup> shall also apply to absentee voting, in which case the person casting an absentee ballot shall not remove the detachable stub from the ballot. After the ballot has been prepared by the elector, the elector shall affix his signature on the reverse side of the perforated stub and then shall cast the ballot as now provided by law.

Should the elector be unable to sign his name, he shall place the ballot face down so as not to expose the number of same and shall sign on the back of the perforated stub an "X." The attesting officer shall then write the elector's name on the back of the stub.

The absentee ballot shall then be delivered to the election judge in the proper precinct as is now provided for in this title.

Before the election judge deposits an absentee ballot as elsewhere provided for in this title, he shall detach from said ballot the perforated stub and place it in the stub box. If the name of the elector does not appear on the reverse side of said perforated stub the election judge shall write the name of the elector on the back of said stub before depositing same in the stub box. Acts 1949, 51st Leg., p. 615, ch. 329, § 6.

<sup>1</sup> This article and arts. 2980, 3008, 3012, 3109, 3122, 2997d, 3153a, 2992a.

Emergency. Effective June 7, 1949.

Sections 1-5, 7, 7-A, 8 of the act of 1949 are published as arts. 2980, 3008, 3012, 3109, 3122, 2997d, 3153a, 2992a.

Section 9 read as follows: "Should any portion, Section, sentence, clause, phrase, or word in this Bill be unconstitutional or

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

Section 10 repealed all conflicting laws and parts of laws.

## Art. 2977a Inoperative

This article, derived from Acts 1949, 51st Leg., p. 1006, ch. 542, provided a general registration system for all elections.

Section 13 of the Act of 1949 provided that the Act should become effective in the event the proposed constitutional amend-

ment, S.J.R. No. 1, Acts 1949, 51st Leg., p. 1489, abolishing the poll tax, was adopted.

Since the proposed constitutional amendment was defeated at the election held on Nov. 8, 1949, this Act is inoperative.

## CHAPTER SIX—OFFICIAL BALLOT

## Art.

2978b. Party Advocating Communism or overthrow of Government by force; exclusion from ballot [New].

## Art. 2978a. Affidavit required for name to appear on official ballot; certain parties' candidates excluded

Section 1. No person shall be permitted to have his name appear upon the official ballot as a candidate or nominee for any office at a gen-

eral election, primary election or a special election in this State unless and until he shall file a loyalty affidavit with the State, District, County or Party Official with whom the law requires him to file his application for a place on the ballot. Said affidavit shall be in a form to be prescribed by the Attorney General of Texas and shall recite that if said candidate is nominated or elected to the office which he seeks, he will support and defend the constitution and laws of the United States and of the State of Texas. Said affidavit shall further recite that said candidate believes in, approves of and if nominated or elected he will support and defend our present representative form of government, and will resist any effort or movement from any source which seeks to subvert or destroy the same or any part thereof. Use of the masculine term herein shall be construed to include the feminine.

Sec. 2. The name of no candidate or nominee of any political party whose principles include any thought or purpose of setting aside representative form of government and substituting therefor any other form of government shall be permitted on the official ballot.

Sec. 3. It is specifically provided that no candidate or nominee of the Communist Party or the Fascist Party or the Nazi Party shall ever be allowed a place on said official ballot.

Sec. 4. Any State, District, County or Political Officer failing or refusing to require a loyalty affidavit as prescribed herein shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200). As amended Acts 1949, 51st Leg., p. 432, ch. 232, § 1.

Emergency. Effective May 20, 1949.

Sections 2 and 3 of the act of 1949 read as follows:

"Sec. 2. If any section, subsection, paragraph, sentence, clause or provision of this Act shall for any reason be held invalid, such invalidity shall not affect any other

portion of this Act; but this Act shall be construed and enforced as if such invalid portion had not been contained therein.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

#### **Art. 2978b. Party advocating Communism or overthrow of Government by force; exclusion from ballot**

Any political party whose members believe in or advocate the principles and teachings of Communism, or who propose or advocate the overthrow of the Constitutional Government of the United States by force, shall not be permitted to have the name of any such party printed or placed on the official ballot at any General Election hereafter to be held in this state. Acts 1949, 51st Leg., p. 234, ch. 131, § 1.

Emergency. Effective May 10, 1949.

Title of Act:

An Act providing that any political party whose members believe in or advocate the principals or teachings of Communism, or who proposes or advocate the overthrow of the Constitutional Government of the

United States by force, shall not be permitted to have the name of any such party printed or placed on the official ballot at any General Election hereafter to be held in this state; and declaring an emergency. Acts 1949, 51st Leg., p. 234, ch. 131.

#### **Art. 2980. 2969 Form of ballot**

All ballots shall be printed with black ink on clear white paper of uniform style and of sufficient thickness to prevent the marks thereon from being seen through the paper. The tickets of each political party shall be placed or printed on one (1) 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.



Upon each official ballot there shall be in the top right-hand corner a detachable stub formed by a perforated line which shall start two (2) inches below the top right-hand corner of the ballot and shall extend two (2) inches to the left and thence to the top edge of the ballot. Upon the stub thus formed there shall be no printing or writing except the number of such ballot and the date and designation of the election, and the words, "NOTE: VOTER'S SIGNATURE TO BE AFFIXED ON THE REVERSE SIDE." All ballots prepared for an election shall be numbered consecutively beginning with No. 1, and the identical number that appears on the stub shall also appear in the top left-hand corner of the ballot. Those identical numbers in the top left-hand corner and on the stub in the top right-hand corner shall be printed or stamped in consecutive order, on all the ballots prepared for any election, with a separate number for each ballot, at the time of printing and before they are divided up and delivered to the election judges.

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 upon, 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 returns made in accordance with Articles 3079A and 3079B, of the Revised Civil Statutes of Texas, 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 1949, 51st Leg., p. 615, ch. 329, § 1.

Emergency. Effective June 7, 1949.

Sections 2-8 of the amendatory act of 1949 are published as arts. 3008, 3012, 3109, 3122, 2956a, 2997d, 3153a, 2992a.

Section 9 read as follows: "Should any portion, Section, sentence, clause, phrase, or word in this Bill be unconstitutional or

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

Section 10 repealed all conflicting laws and parts of laws.

### CHAPTER SEVEN—ARRANGEMENTS AND EXPENSES OF ELECTION

Art.

2992a. Supplies needed under laws relating to ballots [New].

Art.

2997d. Law relating to ballots inapplicable [New].

#### Art. 2992a. Supplies needed under laws relating to ballots

The respective counties shall provide the additional supplies needed to comply with this Act<sup>1</sup> in so far as general and special elections are concerned. Acts 1949, 51st Leg., p. 615, ch. 329, § 8.

<sup>1</sup> This article and arts. 2980, 3008, 3012, 3109, 3122, 2956a, 2997d, 3153a.

Emergency. Effective June 7, 1949.

Sections 1-7-A of the act of 1949 are published as arts. 2980, 3008, 3012, 3109, 3122, 2956a, 2997d, 3153a.

Section 9 read as follows: "Should any portion, Section, sentence, clause, phrase, or word in this Bill be unconstitutional or

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

Section 10 repealed all conflicting laws and parts of laws.

**Art. 2997a. Providing for voting machines**

Acts 1949, ch. 36, p. 67 (art. 2368f) relating to the issuance of time warrants in counties with a population in excess of 300,000, by section 4, provides that nothing therein shall modify or repeal section 6 of this article.

**Art. 2997d. Law relating to ballots inapplicable**

The provisions of this Act<sup>1</sup> shall not apply to elections in which voting machines are used as provided for elsewhere in this title. Acts 1949, 51st Leg., p. 615, ch. 329, § 7.

<sup>1</sup> This article and arts. 2980, 3008, 3012, 3109, 3122, 2956a, 3153a, 2992a.

Emergency. Effective June 7, 1949.

Sections 1—6, 7-A, 8 of the act of 1949 are published as arts. 2980, 3008, 3012, 3109, 3122, 2956a, 3153a, 2992a.

Section 9 read as follows: "Should any portion, Section, sentence, clause, phrase, or word in this Bill be unconstitutional or

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

Section 10 repealed all conflicting laws and parts of laws.

## CHAPTER EIGHT—CONDUCTING ELECTIONS AND RETURNS THEREOF

Art.

3040a. Death of Governor-elect or death or incapacity of Governor-elect and Lieutenant Governor-elect [New].

**Art. 3008. 3001 Delivery of ballot**

After affixing his signature on the back of each ballot, the election judge shall then check all ballots to see that they are properly numbered, removing any mutilated or unnumbered ballots, thoroughly disarrange and mix the ballots so that they no longer are in consecutive numbered sequence or in any sequence of arithmetic or geometric progression, and then place the ballots face down in a stack or stacks from which each voter shall be allowed to take his own ballot without the number being known to or written down in any manner by the election judge. The election judge shall place a notation on the list of voters showing that the particular person has voted, but shall not make any record of his ballot number. When an election judge is satisfied as to the right of the citizen to vote, the judge shall stamp in legible characters with a stamp of wood or rubber, the poll tax receipt or the certificate of exemption with the words: "Voted on \_\_\_\_\_ day of \_\_\_\_\_ A.D., 19—," or write the same words in ink and then return said receipt or certificate to the voter, and shall at the same time allow the voter to select his official ballot as above set out. The voter shall then immediately retire to a voting booth or a place prepared for voting by the election officers, and there prepare his ballot in the manner provided by law. As amended Acts 1949, 51st Leg., p. 615, ch. 329, § 2.

Emergency. Effective June 7, 1949.

Sections 1, 3—8 of the amendatory act of 1949 are published as arts. 2980, 3012, 3109, 3122, 2956, 2997d, 3153a, 2992a.

Section 9 read as follows: "Should any portion, Section, sentence, clause, phrase, or word in this Bill be unconstitutional or

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

Section 10 repealed all conflicting laws and parts of laws.

**Art. 3012. 3005 Stub box**

There shall be prepared by the county clerk a stub box, as all other boxes for election, except the opening thereof shall not exceed one-sixteenth ( $\frac{1}{16}$ ) of an inch in width and one and one-half ( $1\frac{1}{2}$ ) inches in

length, and it shall then be submitted to the district clerk of the county, who shall seal the box by placing a short ribbon through the hasp on the box and securing the ends of said ribbon with two (2) gummed seals which shall be sealed together by affixing thereto the seal of the court, so as to make it impossible to open the box without breaking the seal; the district clerk further shall prepare in triplicate a certificate showing the number of the box, the date of the election, and the nature of the election. He shall place one (1) copy of this certificate in the box before sealing it, attach one (1) copy to the outside of the box, and retain one (1) copy in his files. This box shall be delivered to the election judge at the same time the regular ballot boxes are distributed, and the election judge shall return this said box to the district clerk at the time he delivers the regular ballot boxes to the designated place. Upon its return, the district clerk shall keep the box secure, as other papers of the district court, and shall allow no one to open the box except by order of the district court, upon the trial of an election contest involving the contents of said box. The box shall be treated as other papers of the district court with the exception that it shall not be opened except by order of the court, and the court further shall have the power to punish anyone found guilty of violating the provisions of this Section as contempt of court.

The district clerk shall keep this box for a period of at least sixty (60) days (unless the contents of said box shall involve an election contest) after the date of the election at which time the contents of the box shall be destroyed by fire under the direction of the district judge and in the presence of the county judge and district clerk.

**Depositing Ballots.** When a voter who is voting in person shall have prepared his ballot, he shall immediately detach therefrom the perforated stub and affix his signature to the back of the same and deposit it in the stub box before depositing his ballot and without disclosing to anyone the number of his stub. Should the voter be unable to sign his name, he shall place the stub face down so as not to expose the number of his stub and he shall sign the same with an "X" with the election judge placing the voter's name in the election judge's own handwriting, and the voter shall then drop the stub in the stub box before the voter deposits his ballot. The voter shall then fold the ballot so as to conceal the printing thereon and so as to expose the signature of the presiding judge on the back of the ballot, then deposit the ballot in the proper ballot box, and unless the ballot is deposited in such ballot box and the stub in the stub box by the voter in person, the same shall not be counted as a vote in such election. As amended Acts 1949, 51st Leg., p. 615, ch. 329, § 3.

Emergency. Effective June 7, 1949.

Sections 1, 2, 4—8 of the amendatory act of 1949 are published as arts. 2980, 3008, 3109, 3122, 2956a, 2997d, 3153a, 2992a.

Section 9 read as follows: "Should any portion, Section, sentence, clause, phrase, or word in this Bill be unconstitutional or

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

Section 10 repealed all conflicting laws and parts of laws.

#### Art. 3026a. Time for report by election judges

The presiding judges in the several election precincts in this State, in General and Special elections, shall make a report of the returns of said election to the County Judge of their respective counties in this State as soon as all votes have been counted and tabulated, and said County Judges shall, within forty-eight (48) hours after the returns have been canvassed by the Commissioners Court, as provided in Article 3030, Revised Civil Statutes, 1925, forward by mail to the Secretary of State complete returns of the General and Special elections in their respective counties. Provided this Section shall in nowise be construed as repeal-

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

ing Article 3036, Revised Civil Statutes, 1925. As amended Acts 1949, 51st Leg., p. 688, ch. 361, § 3.

Emergency. Effective June 10, 1949.

Sections 1, 2, 4-7 of the amendatory act of 1949 are published as arts. 3084, 3106, 3028, 3123, 3124, 3128.

Section 8 read as follows: "If any part

of this law be held void such holding shall not affect any other part hereof; and all laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

**Art. 3028. 3027—28 Ballots and copy of report of returns delivered to county clerk; announcement**

Immediately after counting the votes by the Managers of the election, the presiding officer shall place all the ballots voted, together with one (1) poll tax list and one (1) tally list, into a wooden or metallic box, and shall securely fasten the box with nails, screws, or locks, and he shall immediately deliver said box to the County Clerk of his county or of the county to which the unorganized county is attached, for judicial purposes, whose duty it shall be to keep the same securely. Also, the presiding judge shall deliver a copy of the report of the returns to said County Clerk, together with the ballot box, and the Clerk shall immediately announce the returns of the election in the precinct reporting, and shall post said returns on a bulletin board within his office. In event of any contest growing out of elections within one (1) year thereafter, the County Clerk shall deliver said ballot box to any competent officer having process therefor, for any tribunal or authority authorized by law to demand such ballot box; provided that all questions arising at any election box shall be settled and determined by the presiding officer and the judges, any law to the contrary notwithstanding. If no contest arose out of the election within one (1) year after the day of such election, said Clerk shall destroy the contents of said ballot box by burning the same. As amended Acts 1949, 51st Leg., p. 688, ch. 361, § 4.

Emergency. Effective June 10, 1949.

Sections 1-3, 5-7 of the amendatory act of 1949 are published as arts. 3084, 3106, 3026a, 3123, 3124, 3128.

Section 8 read as follows: "If any part of this law be held void such holding shall

not affect any other part hereof; and all laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

**Art. 3040a. Death of Governor-elect or death or incapacity of Governor-elect and Lieutenant Governor-elect**

Pursuant to the provisions as set forth in House Joint Resolution No. 7 which was approved and passed by the people of the State of Texas on November 2, 1948,<sup>1</sup> and thereby becoming a part of the Constitution of the State of Texas, the successor to the office of Governor shall be as follows:

If, at the time the Legislature shall canvass the election returns for the offices of Governor and Lieutenant Governor, the person receiving the highest number of votes for the office of Governor, as declared by the Speaker, has died, then the person having the highest number of votes for the office of Lieutenant Governor shall act as Governor until after the next General Election.

It is further provided that in the event that both the Governor-elect and the Lieutenant Governor-elect die or have become permanently incapacitated to take their oaths of office at the time when the Legislature shall canvass the elections returns for the offices of Governor and Lieutenant Governor, and the Legislature finds that neither the Governor-elect nor the Lieutenant Governor-elect are able to take the oath of office and fulfill the duties thereof, then the Speaker of the House of Repre-

sentatives and the President pro tem of the Senate will call a Joint Session of the House of Representatives and Senate for the purpose of electing a Governor and Lieutenant Governor.

The person receiving the highest number of votes cast by the Members of the Legislature for the office of Governor shall become the Governor and hold that office for the constitutional term of two (2) years. The person receiving the highest number of votes for the office of Lieutenant Governor cast by the Members of the Legislature, shall become Lieutenant Governor and hold that office for the constitutional term of two (2) years. Acts 1949, 51st Leg., p: 529, ch. 291, § 1.

<sup>1</sup> Const. art. 4, § 3a.

Emergency. Effective May 28, 1949.

Section 2 of the Act of 1949 repealed all conflicting laws and parts of laws.

**Title of Act:**

An Act to provide for the succession to the office of Governor in the event of the

death or incapacity of the Governor-elect or Lieutenant Governor-elect to take the oath of office; providing for the repeal of all laws in conflict herewith; and declaring an emergency. Acts 1949, 51st Leg., p. 529, ch. 291.

## CHAPTER ELEVEN—PRESIDENTIAL ELECTORS

### Arts. 3079A, 3079B.

Presidential electors, canvass and return of votes for, see art. 2980.

### Art. 3084, 3181-2-3 Electors to convene

On or before the meeting of the electors, the Governor shall cause three (3) lists of names of such electors to be made out and delivered to them as required by Act of Congress. The electors so chosen shall convene in the Capitol at Austin on the first Monday after the second Wednesday in December next after their election and vote for President and Vice-president of the United States and make such return thereof as is or may be required by the laws of the United States. If any person so chosen elector shall, by death or disabling cause, fail to attend by the hour of two o'clock in the afternoon on the day fixed by law, and vote as required by law or if any such person shall be legally disqualified to serve as elector, a majority of the qualified electors present, after having convened, may appoint some other person to act as elector in place of any such absent or disqualified person, and shall immediately report their action to the Secretary of State. As amended Acts 1949, 51st Leg., p. 688, ch. 361, § 1.

Emergency. Effective June 10, 1949.

Sections 2-7 of the amendatory act of 1949 are published as arts. 3106, 3026a, 3028, 3123, 3124, 3128.

Section 8 read as follows: "If any part of this law be held void such holding shall not affect any other part hereof; and all laws and parts of laws in conflict herewith

are hereby repealed to the extent of such conflict."

Under 3 U.S.C.A. § 5, the electors of President and Vice President of each State are required to meet and give their votes on the first Monday after the second Wednesday in December at such place in each State as the legislature of such State shall direct.

## CHAPTER THIRTEEN—NOMINATIONS

1. BY PARTIES OF ONE HUNDRED  
THOUSAND VOTES AND OVER

Art.

3153a. Application of laws relating to ballots [New].

1. BY PARTIES OF ONE HUNDRED THOUSAND VOTES  
AND OVER

## Art. 3106. 3091-2 Nomination by majority vote; second primary

In all nominations by political parties holding primary elections as provided in Title 50, Chapter 13, Revised Civil Statutes of Texas, 1925, and amendments thereto,<sup>1</sup> the candidates for County and precinct offices shall be nominated by a majority vote of the electors voting in such primary; provided that if no candidate receives a majority of the votes cast for the candidates for the office for which he is a candidate, the County Executive Committee, after canvassing the results of such primary as provided by law shall cause the names of the two candidates receiving the highest number of votes to be placed on the ballot to be voted upon at the second primary at the time and in the manner provided by law for such second primary. If all candidates for County and precinct offices are nominated within the County at the first primary election, it shall still be the duty of the County Executive Committee to hold a second primary election for the purpose of nominating District and State candidates. As amended Acts 1949, 51st Leg., p. 688, ch. 361, § 2.

<sup>1</sup> Art. 2923 et seq.

Emergency. Effective June 10, 1949.

Sections 1, 3-7 of the amendatory act of 1949 are published as arts. 3084, 3026a, 3028, 3123, 3124, 3128.

Section 8 read as follows: "If any such conflict."

part of this law be held void such holding shall not affect any other part hereof; and all laws and parts of laws in conflict herewith are hereby repealed to the extent of

## Art. 3109. 3095 Balloting at primaries

Upon each official ballot there shall be in the top right-hand corner a detachable stub formed by a perforated line which shall start two (2) inches below the top right-hand corner of the ballot and shall extend two (2) inches to the left and thence to the top edge of the ballot. Upon the stub thus formed there shall be no printing or writing except the number of such ballot and the date and designation of the election, and the words, "NOTE: VOTER'S SIGNATURE TO BE AFFIXED ON THE REVERSE SIDE." All ballots prepared for an election shall be numbered consecutively beginning with No. 1 and the identical number that appears on the stub shall also appear in the top left-hand corner of the ballot. These identical numbers in the top left-hand corner and on the stub in the top right-hand corner shall be printed or stamped in consecutive order on all the ballots prepared for any election, with a separate number for each ballot, at the time of printing and before they are divided up and delivered to the election judges.

The vote at all general primaries shall be by official ballot which shall have printed at the head the name of the party, and under such head the names of all candidates, those for each nomination being arranged in the order determined by the various committees as herein provided for, beneath the title of the office for which the nomination is sought. The voter shall mark out all the names he does not wish to vote for. The official ballot shall be printed in black ink upon white paper and beneath the

name of each candidate thereof for State and District offices there shall be printed the county of his residence.

The official ballot shall be printed by the county committee in each county, which shall furnish to the presiding officer of the general primary for each voting precinct at least one and one-half (1½) times as many of such official ballots as there are poll taxes paid for such precinct, as shown by the Tax Collector's list. Where two (2) or more candidates are to be nominated for the same office, to be voted for by the qualified voters of the same district, county or justice precinct, such candidates shall be voted for and nominations made separately and all nominations shall be separately designated on the official ballots by numbering the same (1), (2), (3), etc., printing the word "No." and the designated number after the title of the office for which such nominations are to be made. Each candidate for such nominations shall designate in the announcement of his candidacy, and in his request to have his name placed on the official ballot, the number of the nomination for which he desires to become a candidate, and the names of all candidates so requesting shall have their names printed beneath the title of the office and the number so designated. Each voter shall vote for only one (1) candidate for each such nomination. As amended Acts 1949, 51st Leg., p. 615, ch. 329, § 4.

Emergency. Effective June 7, 1949.

Sections 1—3, 5—8 of the amendatory act of 1949 are published as arts. 2980, 3008, 3012, 3122, 2956a, 2997d, 3153a, 2992a.

Section 9 read as follows: "Should any portion, Section, sentence, clause, phrase, or word in this Bill be unconstitutional or

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

Section 10 repealed all conflicting laws and parts of laws.

#### Art. 3122. 3118 Precaution against fraud

The same precautions required by law to secure the purity of a ballot box in general elections, in regard to the ballot boxes, locking the ballot boxes, sealing the same, watchful care of them, the secrecy in preparing the ballot in the booth or place prepared for voting and the procedure involving the removal of the detachable stub and the depositing of the ballot and the stub in the proper boxes shall be observed in all primary elections. As amended Acts 1949, 51st Leg., p. 615, ch. 329, § 5.

Emergency. Effective June 7, 1949.

Sections 1—4, 6—8 of the amendatory act of 1949 are published as arts. 2980, 3008, 3012, 3109, 2956a, 2997d, 3153a, 2992a.

Section 9 read as follows: "Should any portion, Section, sentence, clause, phrase, or word in this Bill be unconstitutional or

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

Section 10 repealed all conflicting laws and parts of laws.

#### Art. 3123, 3121. Time for returns by judges; delivery of copy and posting of returns; completion of returns

The presiding judges of party primary elections in all election precincts of this State, as soon as polls have closed and the counting of the votes in the respective precincts have been completed, shall make returns to the County Clerks of the respective counties of the ballot boxes containing ballots voted, locking and sealing tally sheets, poll lists, return sheets, ballots mutilated and defaced, and ballots not voted. The presiding judges shall also deliver a copy of the returns to the County Clerk whose duty it shall be to read the same as soon as received and he shall immediately post said returns at a conspicuous place within his office. The County Chairman shall, within forty-eight (48) hours after the votes have been canvassed by the County Executive Committee, as provided in Article 3124 of this Act, mail to the State Chairman of the respective parties complete returns as to the results of said party

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

primary elections as to the several State offices. As amended Acts 1949, 51st Leg., p. 688, ch. 361, § 5.

Emergency. Effective June 10, 1949.  
Sections 1—4, 6, 7 of the amendatory act of 1949 are published as arts. 3084, 3106, 3026a, 3028, 3124, 3128.

Section 8 read as follows: "If any part

of this law be held void such holding shall not affect any other part hereof; and all laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

#### Art. 3124. 3122 Returns of election

Immediately upon the completion of counting of the ballots, the precinct election judges shall prepare and make out triplicate returns of the same, showing: (1) the total number of votes polled at such box; (2) the total number of votes cast at such box for each candidate, and the total number of votes polled at such box for or against any proposition voted upon. Such returns shall be signed and certified as correct by the judges and clerks of the election precinct. One (1) copy of said returns shall be sealed up in an envelope and delivered by one (1) of the precinct judges of the election to the Chairman of the County Executive Committee immediately after the ballots have been counted and the proper records made in connection therewith; one (1) copy of said returns shall be placed in one (1) of the ballot boxes, together with the ballots voted and shall be locked and sealed therein; the remaining copy of said returns shall be immediately delivered to the County Clerk as provided in Article 3123 of this Act. The Chairman of the County Executive Committee shall, upon receiving returns from each election precinct in the county, order the members of the County Executive Committee to convene at the county seat of the county on the following Tuesday succeeding the day of such primary elections and the returns shall be opened by the Executive Committee in executive session and shall be canvassed by them. The County Attorney shall, upon relation of the County Chairman, immediately institute mandamus proceedings in the proper court to compel the delinquent returning officers to make proper returns as required by law, and it shall be the duty of the County Chairman and County Clerk to notify the County Attorney of the delinquency. As amended Acts 1949, 51st Leg., p. 688, ch. 361, § 6.

Emergency. Effective June 10, 1949.  
Sections 1—5, 7 of the amendatory act of 1949 are published as arts. 3084, 3106, 3026a, 3028, 3123, 3128.

Section 8 read as follows: "If any part of this law be held void such holding shall not affect any other part hereof; and all laws and parts of laws in conflict herewith are repealed to the extent of such conflict."

#### Art. 3128. 3129 Boxes and ballots returned

Ballot boxes, after being used in the primary elections, shall be returned to the County Clerks as provided in Article 3123 of this Act, and unless there be a contest for a nomination in which fraud or illegality is charged, they shall be unlocked and unsealed by the County Clerk and their contents destroyed by the County Clerk and the County Judge without examination of any ballot at the expiration of sixty (60) days after such primary election. Provided that the District Judge, upon his own motion, or upon the request of the County or District Attorney, may, by an order entered on the minutes of the District Court, defer the destruction of the contents of such ballot boxes for a period not to exceed twelve (12) months after such primary election. As amended Acts 1949, 51st Leg., p. 688, ch. 361, § 7.

Emergency. Effective June 10, 1949.  
Sections 1—6 of the amendatory act of 1949 are published as arts. 3084, 3106, 3026a, 3028, 3123, 3124.

Section 8 read as follows: "If any part of this law be held void such holding shall not affect any other part hereof; and all laws and parts of laws in conflict herewith are repealed to the extent of such conflict."



**Art. 3153a. Application of laws relating to ballots**

The provisions of Articles 2980, 3008, and 3012, Revised Civil Statutes of Texas, 1925, as amended by this Act, relative to the form, numbering and secrecy of the ballot, as well as the procedure involving the selection of the ballot and the removal of the detachable stub, shall apply to all primary elections as well as those held under or by authority of Chapter 467, Acts, Second Called Session, Forty-fourth Legislature, as amended,<sup>1</sup> except as provided in Section 7 hereof.<sup>2</sup> Acts 1949, 51st Leg., p. 615, ch. 329, § 7-A.

<sup>1</sup> Vernon's Ann.P.C. art. 666—1 et seq.,  
art. 667—1 et seq.

<sup>2</sup> Art. 2997d.

Emergency. Effective June 7, 1949.

Sections 1—7, 8 of the act of 1949 are  
published as arts. 2980, 3008, 3012, 3109,  
3122, 2956a, 2997d, 2992.

## TITLE 51—ELEEMOSYNARY INSTITUTIONS

### CHAPTER ONE—GENERAL PROVISIONS

Art.

3174a. Institutions to be known as Texas State Hospitals and special schools [New].

Art.

3174b. Board for Texas State Hospitals and special schools [New].

#### Article 3174. Management

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and special schools, see art. 3174b.

#### Art. 3174a. Institutions to be known as Texas state hospitals and special schools

Section 1. From and after passage of this Act, the name "Eleemosynary Institutions" under which the Austin State Hospital, Abilene State Hospital, Big Spring State Hospital, Rusk State Hospital, San Antonio State Hospital, Terrell State Hospital, Wichita Falls State Hospital, Austin State School, Austin State School Farm Colony, Mexia State School and Home, State Orphans Home, Waco State Home, Texas School for the Deaf, Texas School for the Blind, Texas Deaf Blind and Orphan School, Confederate Home for Men, Confederate Woman's Home, East Texas Tuberculosis Sanatorium, Weaver H. Baker Memorial Tuberculosis Sanatorium, Kerrville State Sanatorium, State Tuberculosis Sanatorium, Gainesville State School for Girls, Gatesville State School for Boys, Brady State School, Alabama-Coushatti Indian Agency and the State Dairy and Hog Farm operate and have been entitled is hereby changed and the general name of said institutions shall hereafter be known and designated as the "Texas State Hospitals and Special Schools."

Sec. 2. Wherever the name "Eleemosynary Institutions" or any reference thereto appears in the Legislative Statutes of Texas of 1925, or in any amendment thereto or in any Acts of any Legislature passed since adoption of said Revised Statutes, such name and such reference shall hereafter mean and apply to the "Texas State Hospitals and Special Schools" in order to conform to the new name of said institutions as provided in Section 1 hereof.

Sec. 3. All Legislative Acts and appropriations heretofore passed either in or by reference to the Eleemosynary Institutions are hereby in all things ratified and confirmed in behalf of the Texas State Hospitals and Special Schools. Acts 1949, 51st Leg., p. 324, ch. 157.

Emergency. Effective May 13, 1949.

#### Art. 3174b. Board for Texas State Hospitals and special schools

##### Creation of board; members

Section 1. There is hereby created the Board for Texas State Hospitals and Special Schools, which shall be composed of nine (9) members to be appointed by the Governor with the advice and consent of the Senate of Texas, such appointments to be made biennially on or before February 15th. Not more than three (3) medical doctors may be members of this Board. Each member of said Board shall be a State Officer within the meaning of the Constitution and before entering upon the discharge of his duties shall take the Constitutional oath of office. The term of office of each member shall be six (6) years, except that in

making the first appointments the Governor shall appoint three (3) members for a term of two (2) years each, three (3) members for a term of four (4) years each, and three (3) members for a term of six (6) years each, so that the terms of three (3) members shall expire every two (2) years. Vacancies occurring in the Board shall be filled by appointment of the Governor for the unexpired term.

**Organization; transfer of powers and duties**

Sec. 2. Upon the effective date of this Act, the Governor shall appoint the Board provided in this Act and the Board shall proceed to organize as required by Section 5 of this Act and employ the Executive Director and such other personnel necessary to carry out the provisions of this Act. Effective September 1, 1949, the control and management of, and all rights, privileges, powers, and duties incident thereto including building, design and construction of the Texas State Hospitals and Special Schools which are now vested in and exercised by the State Board of Control shall be transferred to, vested in, and exercised by the Board for Texas State Hospitals and Special Schools. Provided, however, that the Board of Control shall continue to handle purchases for such institutions in the same manner as they do for other State agencies.

**Institutions included**

Sec. 3. The term "Texas State Hospitals and Special Schools" as used in this Act shall mean The Austin State Hospital, Austin State School, Austin State School Farm Colony, The Confederate Home for Women, The Texas Confederate Home for Men, The Texas Blind, Deaf and Orphan School, The Texas School for the Blind, The Texas School for the Deaf, and the State Dairy and Hog Farm, all located in or adjacent to the City of Austin, Texas, The Abilene State Hospital, Abilene, Texas, The Big Spring State Hospital, Big Spring, Texas, The Rusk State Hospital, Rusk, Texas, The San Antonio State Hospital, San Antonio, Texas, The Terrell State Hospital, Terrell, Texas, The Wichita Falls State Hospital, Wichita Falls, Texas, The State Tuberculosis Sanatorium, Sanatorium, Texas, The Kerrville State Sanatorium, Kerrville, Texas, The East Texas Tuberculosis Sanatorium, Tyler, Texas, The Weaver H. Baker Tuberculosis Sanatorium, Mission, Texas, The Mexia State School and Home, Mexia, Texas, The Alabama Coushatti Indian Reservation, Livingston, Texas, The Waco State Home, Waco, Texas, The State Orphans Home, Corsicana, Texas, The School for the Cerebral Palsied and all other institutions heretofore or hereafter referred to as "eleemosynary institutions" or "hospitals and special schools" except the Gatesville State School for Boys, Gatesville, Texas, Gainesville State School for Girls, Gainesville, Texas, and Brady State School for Negro Girls, Brady, Texas.

**Per diem and expenses; meetings**

Sec. 4. Each member of the Board for Texas State Hospitals and Special Schools shall be entitled to a per diem of Ten Dollars (\$10) per day and actual and necessary expenses when engaged in the discharge of his official duties. Said Board shall hold a regular meeting on the second Monday in January, March, May, July, September and November of each year for the transaction of any and all official business. Special meetings may be called by the Chairman. Five (5) members of the Board shall constitute a quorum for the transaction of business at any meeting thereof. All meetings shall be open to the public and the Board shall keep a complete record of all its proceedings.

**Officers and personnel; rules and regulations**

Sec. 5. The Board shall organize by the election of a Chairman and a Vice-Chairman from its membership, and shall organize the work of said Board as may seem proper. The Board shall have the authority to promulgate such rules and regulations as it deems proper for the efficient administration of this Act. The Board shall have the authority to employ such personnel as may be necessary for the discharge of its duties. The Board shall employ an Executive Director of the Texas State Hospitals and Special Schools named herein under said Board. The Executive Director shall receive a salary of not to exceed Ten Thousand (\$10,000) per annum and shall possess qualifications and training which suit him to manage the affairs of a modern system of State Hospitals and Special Schools, and it shall be his duty to carry out the policies of the Board in the management and control of the institutions under said Board. The Executive Director shall give bond in the sum of Fifty Thousand Dollars (\$50,000) payable to the State of Texas conditioned upon the faithful performance of his duties.

**Acquiring property for tuberculosis sanatoriums**

Sec. 8. The Board for Texas State Hospitals and Special Schools is hereby authorized to negotiate for and to acquire from the United States Government, or any agency thereof, or from any source whatsoever, by gift, purchase, or leasehold, for and on behalf of the State of Texas, for use in the State service, and in the establishment of State tuberculosis sanatoriums, any lands, buildings, and facilities within the State of Texas, and any personal properties wherever located, and to take title thereto for and in the name of the State of Texas.

**Transfer of personal property**

Sec. 9. All personal property now in use by the Board of Control for the administration of any of the institutions named herein is hereby transferred to the Board for Texas State Hospitals and Special Schools.

**Institutional business managers**

Sec. 10. The Superintendent of any institution named herein with the approval of the Executive Director may appoint a business manager who shall receive a salary not to exceed Six Thousand Dollars (\$6,000) per year and who shall receive the same emoluments as the Superintendent. The business manager shall manage the fiscal affairs of the institution, handle all maintenance matters, be responsible for the efficient operation of all auxiliary enterprises, and prepare and submit to the Executive Director the estimate of needed appropriations each biennium. He may have such other duties and powers as the Board for Texas State Hospitals and Special Schools may by rule and regulation prescribe. He shall give bond in the sum of Twenty-five Thousand Dollars (\$25,000) payable to the State of Texas conditioned upon the faithful performance of his duties. His signature and the approval of the State Board of Control on any account against the appropriated funds of the institutions named herein shall authorize the Comptroller to draw his warrant against the State Treasurer in payment, provided, however, the Board of Control approval shall not be required on accounts other than those arising from the purchase of merchandise.

**Partial invalidity**

Sec. 12. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such invalid part or parts thereof would be so declared unconstitutional. Acts 1949, 51st Leg., p. 588, ch. 316.

Emergency. Effective June 4, 1949.

The act of 1949 contained the following preamble:

"WHEREAS, It is the responsibility of modern society to afford adequate treatment for its less fortunate citizens who suffer from the impediment of mental and physical ailments; and

"WHEREAS, There is a growing sentiment in Texas that its system of State Hospitals and Special Schools has not kept pace with modern thinking, training methods and procedures; and

"WHEREAS, Much of the dissatisfaction arises from the fact that the institutions of Texas are under the supervision of the Board of Control, an agency designed for fiscal and administrative function and consequently said Board is overburdened

with the duties imposed upon it and cannot, therefore, give to the direction of the State Hospitals and Special Schools the specialized supervision required; and

"WHEREAS, Through no fault of said Board of Control the various institutions and services have deteriorated and now require immediate remedial action; now, therefore."

Section 6 of the act of 1949 made an appropriation for the remainder of the fiscal year ending August 31, 1949. Section 7 made an appropriation for the biennium ending August 31, 1951. Section 7a provided that expenditure of the money appropriated should be subject to the approval of the Legislative Audit Committee. Section 11 repealed all conflicting laws and parts of laws.

**Arts. 3177, 3178, 3181.**

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

**Art. 3183a. Oil and gas lands of State Eleemosynary Institutions and Parks**

Section 17a. The said board herein created shall have no right, power or authority to lease for any purpose any of the land composing the San Jacinto Battlefield lands or Washington Park on the Brazos, and it is hereby expressly forbidden from leasing same. As amended Acts 1949, 51st Leg., p. 397, ch. 212, § 1.

Emergency. Effective May 14, 1949.

Leasing state park lands, see art. 6077o.

**CHAPTER TWO—STATE HOSPITALS**

Art.

3196b. State hospital fund [New].

**Arts. 3184, 3185a, 3188, 3190, 3191, 3193, 3193a, 3193g, 3193h**

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

**Art. 3193i. Temporary absence**

Discharge upon restoration proceedings, see art. 5561b.

**Arts. 3193j, 3193m, 3193o—1, 3193o—2, 3196a**

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

**Art. 3196b. State hospital fund**

The STATE HOSPITAL FUND is created hereby. All revenue and funds derived under and by virtue of the provisions of this Act,<sup>1</sup> save and except any portion required by Section 3, Article 7 of the Constitution of the State of Texas to be set apart for the benefit of the Public Free Schools, shall be paid into such STATE HOSPITAL FUND, anything in this Act or any other law of this State to the contrary notwithstanding. The moneys in the STATE HOSPITAL FUND shall be used for the support and maintenance, construction, remodeling and repairing of buildings, the acquisition of sites therefor, and the purchase of equipment for State Hospitals and Special Schools and those institutions under the direction of the State Youth Development Council of the State of Texas, as the same may be appropriated by the Legislature. But the Legislature may at any time provide for the transfer of any moneys remaining in or accruing to such Fund after August 31, 1951. Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. IX.

<sup>1</sup> Arts. 4769½, 7047, subd. 41.a(a-1), 7047b, 7047k-1, 7047l, 7047m, 7047n, 7047o, 7057a, 7057e, 7060½, 7064a-1, 7064b, 7064½, 7066c, 7070A, 7084½; Vernon's Ann.P.C. arts. 666-21½, 666-21a, 667-23A, 1111d.

Emergency. Effective Feb. 28, 1950.

**CHAPTER THREE—OTHER INSTITUTIONS****Art.**

3202—c. Superintendents of schools for blind and deaf [New].

**TEXAS SCHOOL FOR THE DEAF**

3205a. Name changed to Texas school for the deaf [New].

**TEXAS SCHOOL FOR THE BLIND**

3207b. Commission; eligibility for appoint-

**Art.**

ment; compensation; secretary; expenses and accounts [New].

**ABILENE STATE HOSPITAL**

3232a. State hospital for epileptics [New].

**MEXIA STATE SCHOOL AND HOME; AGED SENILE PERSONS**

3263c. State school and home; aged senile divisions at state hospital [New].

**Art. 3202—b. Failure to make required payments**

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

**Art. 3202—c. Superintendents of schools for blind and deaf****School for blind; qualifications of superintendent**

Section 1. The Superintendent of the Texas School for the Blind shall be a graduate of an accredited university or college, shall have a minimum of one (1) school year of full-time classroom teaching and shall have a total of at least five (5) years experience in the education of the blind, with at least two (2) years of such experience gained in some supervisory capacity in the training of the blind.

**School for deaf; qualifications of superintendent**

Sec. 2. The Superintendent of the Texas School for the Deaf shall be a graduate of an accredited university or college, shall have a minimum of one (1) school year of full-time classroom teaching, shall have at least a total of five (5) years experience in the education of the deaf, with at least two (2) years of such experience gained in some supervisory capacity in training the deaf and shall have special training in the education of the deaf in a duly certified school granting such special training.

**Residence; duties; removal for good cause**

Sec. 3. The Superintendents of both the Texas School for the Blind and the Texas School for the Deaf shall reside at the respective school of which he is superintendent and shall devote his time exclusively to the duties of his office, and may be removed from such office by the State Board of Control for good cause after a trial in a court of competent jurisdiction in Travis County, Texas, and a judicial determination of whether good cause exists for such removal.

**Good cause defined**

Sec. 4. Good cause, as referred to in the preceding Section, means the commission of any felony or any other offense involving moral turpitude or of the failure or refusal of such superintendent to carry out the duties prescribed by the Legislature or by the State Board of Control.

**Contracts; employee of State Board of Control**

Sec. 5. On or after September 1, 1949, the State Board of Control is authorized to enter into contract with any person having the qualifications hereinbefore provided, as the employee of the State Board of Control, to act as Superintendent of the Texas School for the Blind or the Texas School for the Deaf until such person is removed for good cause as that term is defined in the preceding Section. Acts 1949, 51st Leg., p. 914, ch. 493.

Emergency. Effective June 29, 1949.

**Title of Act:**

An Act defining the qualifications of the Superintendents of the Texas School for the Blind and the Texas School for the Deaf; providing for removal of same for

good cause; defining good cause; making said Superintendents employees of the State Board of Control; and declaring an emergency. Acts 1949, 51st Leg., p. 914, ch. 493.

**TEXAS SCHOOL FOR THE DEAF****Art. 3205a. Name changed to Texas School for the Deaf**

From and after passage of this Act, the name of the Deaf and Dumb Asylum, which is located in Austin, Travis County, Texas, shall be and the same is hereby changed and shall hereafter be known and designated as the Texas School for the Deaf. Acts 1949, 51st Leg., p. 325, ch. 158, § 1.

Emergency. Effective May 13, 1949.

**Title of Act:**

An Act changing the name of the Deaf and Dumb Asylum, so as to be hereinafter

known as the Texas School for the Deaf; and declaring an emergency. Acts 1949, 51st Leg., p. 325, ch. 158.

**TEXAS SCHOOL FOR THE BLIND****Art. 3207. 188, 189 Oculist**

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

**Art. 3207a. State Commission for the Blind; quorum; vacancies; powers and duties**

Section 1. There is hereby created and established the State Commission for the Blind, consisting of six (6) members to be appointed by the Governor and confirmed by the Senate of Texas; two (2) to be

graduates of the Texas School for the Blind, and the other four (4) to be outstanding citizens of Texas, and whose terms of office shall be for six (6) years each, or until their successors shall have been appointed and qualified; provided, however, that the Board shall annually elect a chairman from its membership and that four (4) members shall constitute a quorum for the transaction of business; providing the term of two (2) members to expire January 1, 1945, the term of two (2) members to expire January 1, 1947, and the term of two (2) members to expire January 1, 1949; provided, however, that the present members of the State Commission for the Blind who have previously been appointed by the Governor and confirmed by the Senate shall continue to hold office for the terms to which they have been appointed. The Governor shall designate which appointee he desires to fill each term and shall make such appointments immediately after the effective date of this Act. Vacancies shall be filled for any unexpired term by appointment by the Governor with the advice and consent of the Senate. On January 1, 1945, and biennially thereafter, vacancies existing on said Commission shall be filled, and members selected shall be appointed for a full term of six (6) years, and each member of said Commission shall hold office until his successor has been appointed and has qualified by taking the oath of office. As amended Acts 1949, 51st Leg., p. 1375, ch. 627, § 1.

Emergency. Effective June 27, 1949. and 1949 repealed all conflicting laws and Section 2 of the amendatory acts of 1943 parts of laws.

**Art. 3207b. Commission; eligibility for appointment; compensation; secretary; expenses and accounts**

Sec. 3. No paid employee of any agency carrying on work for the blind shall be eligible for appointment. Members of the Commission for The Blind shall serve without compensation but shall receive their necessary traveling and other expenses actually incurred in the performance of their duties. The Commission for The Blind shall annually elect a secretary and such other employees as may be authorized by the general or special appropriation for said Commission. Expenses of members of the Board and of employees shall be listed on itemized statements and certified to under oath by such member, or employee, as being true and correct. All accounts shall be approved under oath by the executive secretary-director before payment may be made. Acts 1949, 51st Leg., p. 1375, ch. 627, § 3.

The acts of 1943 and 1949 contained identical provisions, except that the last two sentences of the text were not in the act of 1943.

### CONFEDERATE HOME

**Arts. 3213, 3216a.**

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools, see art. 3174b.

### SOLDIERS' AND SAILORS' HOME

**Art. 3220—1. Creation of Soldiers' and Sailors' Home; persons eligible; regulations**

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools, see art. 3174b.



## TEXAS BLIND, DEAF AND ORPHAN SCHOOL

## Arts. 3221, 3221a.

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools, see art. 3174b.

## ABILENE STATE HOSPITAL

Arts. 3223-3232. Repealed. Acts 1949, 51st Leg., p. 756, ch. 406, § 13. Eff. June 14, 1949.

## Art. 3232a. State hospital for epileptics

**Designation of Abilene State Hospital**

Section 1. The State hospital for the care, support and treatment of epileptics shall be the Abilene State Hospital.

**Superintendent; officers and employees**

Sec. 2. The State Board of Control shall appoint a superintendent and fix the salary and duties. The superintendent, with the approval of the State Board of Control, shall make all necessary rules and regulations for the governing and management of this hospital consistent with this Act. The superintendent shall be a reputable, practicing physician duly licensed to practice medicine in this State; such superintendent shall have power to appoint and remove subordinate officers and employees; such superintendent shall be responsible to the Board for the details and management of the institution and shall only exercise the power conferred upon him by law, with the approval and consent of the Board. The Board shall also determine the number and fix the salaries of other officers and employees connected with the institution.

**Persons admissible; classification**

Sec. 3. All persons, both white and colored, afflicted with epilepsy, who shall have been citizens of this State and of the county from which they came at the time of filing of their application with the County Judge, as hereinafter provided, shall be admitted to said institution, with the following exception: Those who are infirm and bedridden or suffering from contagious or infectious diseases. A citizen of this State is defined to be any person who has actually resided therein with the bona fide intention of being a citizen thereof for a period of twelve (12) months next preceding the date of such application.

The classification of all patients admitted to the hospital shall be as follows:

- (1) Indigent public patients.
- (2) Non-indigent public patients.
- (3) Private patients.

Indigent patients are those who possess no property of any kind nor have anyone legally liable for their support, maintenance and treatment, and who are unable to reimburse the State. This class shall be supported at the expense of the State.

Non-indigent patients are those who possess some property out of which the State may be reimbursed or who have someone legally liable for their support, maintenance and treatment. This class shall be kept

and maintained at the expense of the State, as in the first instance, but in such cases the State shall have the right to be reimbursed for the support, maintenance and treatment of such patients.

#### Preference in admission

Sec. 4. When there is room in the hospital, the superintendent shall receive such patients and when application is made for more patients than can be admitted, the superintendent shall give preference to indigent public patients over non-indigent public patients and shall at all times give preference to both of the classes mentioned above over private patients.

#### Transfer of patients from state hospital for insane

Sec. 5. When any person is admitted to a State hospital for the insane, and it shall be found that such person is an epileptic, such person shall at once be transferred to this hospital, and when so transferred, shall have the same classification as that given him upon his admission to the State hospital for the insane. The superintendent of the State hospital for the insane shall transmit to the superintendent of this hospital all transcripts of legal proceedings and histories of the epileptics transferred, which they may have. The expenses of the transportation and necessary attendants for all patients so transferred shall be paid out of the apportionment of the maintenance of the hospital transferring such patient.

#### Private patients

Sec. 6. Private patients may be admitted into said hospital upon application of parent, guardian or friend under such regulations as the Board of Control and the superintendent may prescribe, not in conflict with the provisions of this Act. Such patients shall be kept and maintained at the hospital at their own expense or at the expense of their guardian, relatives or friends and, for the board, maintenance and treatment of such patients, the superintendent shall make a special contract at the rate set by the Board of Control and, at the time of admission of any such patients into the hospital, the agreed price for such board, maintenance and treatment must be paid in advance for six (6) months and bond and security given for the prompt payment of all future expenses of such patient. All money so collected shall be paid to the hospital which shall receive and receipt for the same and shall use the same for the maintenance and improvement of said hospital.

#### Application for admission

Sec. 7. The parent, guardian or friend of any epileptic not seeking admission as a private patient, may make application in writing and under oath to the County Judge of the county wherein such epileptic resides for the admission into said hospital, which application shall show:

- (1) Name of the epileptic.
- (2) Sex.
- (3) Age and nativity.
- (4) Whether possessed of any property, and if so, what, and the estimated value thereof.
- (5) Whether the epileptic has anyone legally liable for his support; if so, whom, what property possessed by such person and the estimated value thereof.
- (6) Residence of the epileptic for three (3) years next preceding the date of application.

- (7) Occupation, trade or employment.
- (8) Name of parent or parents, if living; guardian, if any; or correspondent.
- (9) Name of husband or wife, if any.
- (10) Children, if any, number, age and sex.
- (11) Relatives similarly affected, insane, inebriated, consumptive or criminal.

**Physician's certificate**

Sec. 8. The application referred to in Section 7 hereof shall be accompanied with a certificate of a reputable practicing physician stating that he has carefully examined the person for whose admission application is made and that such person is afflicted with epilepsy, and said certificate shall also show the present physical condition of the patient for whom application is made and any special and other information that would be helpful to the authorities of the hospital in caring for and treating the patient.

**Duties of county judge**

Sec. 9. The County Judge shall certify that the physician making such certificate is a reputable physician, actively engaged in the practice of his profession and has complied with the laws of this State granting license to physicians to practice. If such Judge is not satisfied as to the showing made in such application or certificate, or either, he may subpoena witnesses and examine them under oath, touching such matters. If it be made to appear to the County Judge that such epileptic is entitled to admission into the hospital, he shall forward an application to the superintendent of the hospital for admission of such person as an indigent or non-indigent patient, as the Judge shall determine, upon careful investigation, which application shall be accompanied with a full copy of the proceedings had in such case, and the original shall be filed in the office of the County Clerk. The County Judge shall see that each person admitted to the hospital is supplied with three (3) full suits of substantial clothing.

**Expenses of clothing, transportation and escort**

Sec. 10. The expense of such clothing and the transportation of indigent public patients and necessary escort, and compensation to such escort, shall be paid by the county from which the patient shall be sent. Non-indigent public patients shall pay for their own clothing, transportation and necessary escort. In no case shall such escort be entitled to charge or receive more than Two Dollars (\$2) per day and expenses actually necessary in going to and returning from the hospital.

**Liability for support; collection by suit**

Sec. 11. Indigent public patients shall be supported entirely at the expense of the State. Non-indigent public patients shall be kept and maintained at the expense of the State as in the first instance; but in such cases the State shall have the right to be reimbursed for the support, maintenance and treatment of such non-indigent patients and the claim of the State for such support, maintenance and treatment shall constitute a valid lien against property of such patient, or in case he has a guardian, against the estate, or against the person or persons who may be legally liable for his support, maintenance and treatment and financially able to contribute thereto; and such claim may be collected by suit or other procedures, in the name of this State, by the county or district attorney of the county from which said patient is sent, or in

case of the refusal or inability of both to act, the Attorney General shall represent the State against such patient, his guardian, or the person or persons liable for his support, maintenance and treatment, as the case may be; such suit or proceeding to be instituted upon the written request of the State Board of Control, accompanied by the certificate of the superintendent of the hospital as to the amount due the State, which shall in no case exceed the sum set by the Board of Control. In all such suits or proceedings, the certificate of the superintendent shall be sufficient evidence of the amount due the State for the support of such patient. The county or district attorney representing the State shall be entitled to a commission of ten per cent (10%) of the amount collected. All money so collected, less such commission, shall be, by said attorney, paid to the hospital, which shall receive and receipt for the same and shall use the same for the maintenance and improvement of said hospital. Acts 1949, 51st Leg., p. 756, ch. 406.

Emergency. Effective June 14, 1949.

Sections 12 and 13 of the act of 1949 read as follows: "Sec. 12. It is the Legislative intent that the provisions of this Act, with respect to the admission of colored patients, not become effective before August 31, 1951, or until necessary buildings for their care can be constructed, the earlier in point of time controlling for their admission.

"Sec. 13. All laws or parts of laws in conflict herewith are hereby repealed and specifically repealing Articles 3223; 3224, as amended, Chapter 76, Section 1, Forty-eighth Legislature; 3225; 3226; 3227; 3228;

3229; 3230; 3231 and 3232, Revised Civil Statutes of Texas."

**Title of Act:**

An Act to provide for the better and more efficient care of epileptic patients at the Abilene State Hospital; defining the duties of the Superintendent; prescribing the means for admission; authorizing the transfer of epileptic patients from the mental hospitals to the epileptic hospital; prescribing the duties of the County Judge regarding admissions; providing for a repealing clause; and declaring an emergency. Acts 1949, 51st Leg., p. 756, ch. 406.

## STATE TUBERCULOSIS SANATORIUM

### Arts. 3239, 3248, 3251a.

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

## AMERICAN LEGION MEMORIAL SANITORIUM

### Art. 3252. Management and control

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

## STATE TUBERCULOSIS SANATORIUM FOR NEGROES

### Art. 3254a. Sanatorium created and established

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools, see art. 3174b.

Former State Tuberculosis for Negroes at Kerrville, use as sanatorium for mentally ill tubercular patients, see art. 3254c—1.

### Art. 3254a—1. Re-location and re-establishment of State Tuberculosis Sanatorium for negroes

Sec. 14. The State Board of Control shall be authorized, within its discretion, to retain at the Kerrville institution all equipment, supplies.

and property necessary for the operation of the Kerrville institution or to transfer such equipment and property as they may deem best suited to the East Texas State Tuberculosis Sanatorium. Such properties as are retained at the Kerrville institution shall become the property of such institution. As amended Acts 1949, 51st Leg., p. 389, ch. 207, § 2.

Sec. 15. All appropriations available for the State Tuberculosis Sanatorium for Negroes at Kerrville shall be available for the East Texas State Tuberculosis Sanatorium. As amended Acts 1949, 51st Leg., p. 389, ch. 207, § 3.

Amendment by Acts 1949, 51st Leg., p. 389, ch. 207, to sections 14 and 15, effective May 14, 1949.

Sections 1-12 are published as art. 3254c. Sections 16 and 17 are art. 3254d.

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools, see art. 3174b.

### SOUTH TEXAS TUBERCULOSIS SANATORIUM [NEW]

#### Art. 3254b. Acceptance of title; control and supervision

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

### TEXAS STATE SCHOOL FOR CEREBRAL PALSID [New]

#### Art. 3254c. Texas State School for Cerebral Palsied

**Creation; location; site; construction; temporary expenditures; removal of negro tubercular patients; sanatorium for mentally ill tubercular patients**

Section 1. There is hereby created an institution which shall be known as the "Texas State School for Cerebral Palsied" to be located and established at a site to be determined and designated by the State Board of Control. The State Board of Control is directed to select a site by September 1, 1949, and to commence the building and construction of such institution immediately thereafter. The Board of Control shall be authorized to expend such funds as are reasonably necessary for the treatment, care and assistance of indigent cerebral palsied patients until such time as the school herein referred to is established. The Board of Control is further authorized to remove the negro patients of the State Tuberculosis Sanatorium for Negroes at Kerrville to the East Texas State Tuberculosis Sanatorium. The buildings, grounds, personal property and equipment of the Tuberculosis Sanatorium for Negroes at Kerrville, upon the transfer of such patients, may be used by the Board of Control as a tuberculosis sanatorium for the care of mentally ill tubercular patients transferred thereto from the various State mental hospitals, and the Board of Control shall be authorized to appoint a superintendent and such medical staff and employees as the Board may deem necessary and proper, whose salaries shall not exceed those paid at similar institutions. As amended Acts 1949, 51st Leg., p. 389, ch. 207, § 1.

Emergency. Effective May 14, 1949.

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

#### Art. 3254d. East Texas State Tuberculosis Sanatorium

Sec. 16. There is hereby created the "East Texas State Tuberculosis Sanatorium" for tubercular persons. As the Board of Control is able to secure sufficient buildings and equipment to establish such tuberculosis

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

sanatorium, the said Board is hereby authorized and directed to recondition and remodel same as may be necessary to establish a sanatorium, to be known and designated as the "East Texas State Tuberculosis Sanatorium." The Board of Control shall provide for and admit patients to such sanatorium under the same laws, rules and regulations as now provided for admission of tubercular patients. As amended Acts 1949, 51st Leg., p. 389, ch. 207, § 4.

Sec. 17. The State Board of Control shall appoint a superintendent for such East Texas State Tuberculosis Sanatorium and such medical staff and employees as the Board may think necessary and proper, whose salaries shall not exceed the salaries paid for similar positions at the State Tuberculosis Sanatorium at Carlsbad, Texas. Acts 1949, 51st Leg., p. 389, ch. 207, § 5.

Emergency. Effective May 14, 1949.  
Control and management of state hospitals and special schools, except as to pur-

chases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools, see art. 3174b.

### WACO STATE HOME

#### Arts. 3255, 3259.

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

### COLORED GIRLS TRAINING SCHOOL

#### Art. 3259a. Colored girls training school established and maintenance provided

State Youth Development Council, control by, see art. 5143c.

### STATE CANCER AND PELLAGRA HOSPITAL

#### Art. 3263a. Cancer and Pellagra hospital, commission to control and officers

Control and management of state hospitals and special schools, except as to purchases, transferred from Board of Control

to Board for Texas State Hospitals and Special Schools, see art. 3174b.

### MEXIA STATE SCHOOL AND HOME; AGED SENILE PERSONS

#### Art. 3263c. State school and home; aged senile divisions at state hospital

##### Name of institution; transfers

Section 1. From and after the passage of this Act, the institution located at Mexia, Texas, should be referred to as the Mexia State School and Home. The State Board of Control is authorized to transfer from the Austin State School any feeble-minded person now being maintained in the Austin State School who is capable of profiting from the educational program at the Mexia State School and Home, and said Board is also authorized to transfer from any State Hospitals or the Austin State School to the Mexia State School and Home any aged senile persons now being maintained in such State Hospitals or the Austin State School or hereafter committed and/or admitted thereto, and custody of any such feeble-minded person or aged senile person is hereby placed in the Mexia State School and Home.

**Persons admitted**

Sec. 2. The State Board of Control shall have the right to cause to be admitted to the Mexia State School and Home any aged person, after such person has been adjudged insane or feeble-minded, upon receipt of the certified transcript in the manner prescribed by law.

**Furlough or discharge; custodial institution**

Sec. 3. The Superintendent of the Mexia State School and Home may, upon the recommendation of the chief physician employed at said institution, grant any aged senile person confined therein a furlough or discharge in the same manner by which such aged senile persons are now released from the State Hospitals or the Austin State School. Said Mexia State School and Home shall be and is hereby made a custodial institution for the care, maintenance and treatment of aged senile persons.

**Use of part of institution for feeble minded persons**

Sec. 4. It is the Legislative intent that the foregoing provisions of this Act shall not apply to the operation of the school for the feeble-minded at the Mexia State School and Home, and the Board of Control is hereby authorized to continue to use a part of said institution as a school for the training of feeble-minded persons transferred to such institution from the Austin State School.

**Aged senile divisions**

Sec. 5. The State Board of Control is hereby authorized to establish aged senile divisions at the Austin State Hospital, Big Spring State Hospital, Rusk State Hospital, San Antonio State Hospital, Terrell State Hospital, and Wichita Falls State Hospital, for the care, maintenance and treatment of aged senile feeble-minded; and said Board is further authorized to transfer to such divisions within the said Hospitals any aged senile feeble-minded person now or hereafter committed or admitted to the Austin State School and such person shall be restrained in said division pursuant to the laws now governing the operation of the Austin State School and feeble-minded proceedings. Acts 1949, 51st Leg., p. 846, ch. 461.

Emergency. Effective June 21, 1949.

**TITLE 53—ESCHEAT****Article 3272. 3186, 1821, 1770 When estates shall escheat**

Distributive portions of unknown stockholders on dissolution of corporations, see art. 1395a.

## TITLE 54—ESTATES OF DECEDENTS

### CHAPTER TWENTY-THREE—HEIRSHIP, ETC.—ADJUDICATION OF

Art.

3597a: Recorded instruments as to family history as prima facie evidence.

#### Art. 3597a. Recorded instruments as to family history as prima facie evidence

The statement of facts concerning any family history and showing who were the legal heirs of any deceased person when contained in either an affidavit or any instrument legally executed and acknowledged, when any such affidavit or instrument has been of record in the Deed Records of any County in the State of Texas in which the property affected is situated for five years or more shall be received in any suit as prima facie evidence of the facts therein stated, but if there be any error in the statement of facts in such recorded affidavit or instrument the true facts may be proven by any one interested in the proceeding in which said affidavit or instrument is offered in evidence. Acts 1927, 40th Leg., p. 362, ch. 244, § 1.

## TITLE 55—EVIDENCE

### 1. WITNESSES AND EVIDENCE

Art.

3737d. Court interpreters in certain counties [New].

### 1. WITNESSES AND EVIDENCE

#### Art. 3737d. Court interpreters in certain counties

Section 1. In any county bordering on the International Boundary between the United States and the Republic of Mexico, which said county is in two (2) Judicial Districts, in each of which districts there are two (2) counties, and in any county bordering on the International Boundary between the United States and the Republic of Mexico, which said county forms a part of a Judicial District composed of four (4) counties, the Commissioners Court of said county upon request of the District Judge or District Judges of said county, shall appoint a full-time court interpreter, well versed in and competent to speak the Spanish language, to serve said District Courts in said county, and to serve said District Court in said Judicial District in said county, and shall provide a salary for such interpreter not to exceed Thirty Six Hundred Dollars (\$3600) per year, payable in equal monthly payments out of the General Fund of such county.

Sec. 2. The Commissioners Court shall appoint such court interpreter as shall be designated by the District Judges requesting such appointment. Acts 1949, 51st Leg., p. 49, ch. 28.

Emergency. Effective March 9, 1949.

Section 3 of the Act of 1949 repealed all conflicting laws and parts of laws.

Title of Act:

An Act providing for the appointment of court interpreters in certain counties in

certain Judicial District; providing for the payment of salaries to such interpreters; repealing all laws in conflict herewith; and declaring an emergency. Acts 1949, 51st Leg., p. 49, ch. 28.



## TITLE 61—FEES OF OFFICE

## CHAPTER ONE—GENERAL PROVISIONS

- |   |  |
|---|--|
| <p>Art.<br/>3902i. Counties of 35,000 to 40,000; first assistant or chief deputy to county clerk [New].</p> <p>3903e. Seasonal help for district clerk; counties of 30,400 to 31,150 [New].</p> <p>3912e—4b. Application of Art. 3912e—4a extended [New].</p> <p>3912e—14. Counties of over 350,000; assistants of district attorneys and criminal district attorneys [New].</p> <p>3912e—15. Counties of 301,000 to 398,000; compensation of employees, deputies and assistants [New].</p> | <p>Art.<br/>3912e—16. County officers in counties of 90,000 to 145,000; county attorneys in counties of 145,000 to 250,000 [New].</p> <p>3912f—4. Salaries of sheriffs and deputies in counties of 43,900 to 44,000 population [New].</p> <p>3912g. Increase of compensation of precinct, county and district officers and employees [New].</p> <p>3912h. Salaries in counties of 398,000 or more [New].</p> |
|---|--|

**Art. 3886d. Investigators and stenographers for District Attorneys in counties of less than 30,000**

Investigators and stenographers for district attorneys in counties of 70,000 to 220,000, see art. 326k—12.

**Art. 3886f. Compensation of district attorneys**

Section 1. From and after the effective date of this Act, in all Judicial Districts of this State, the District Attorney in each such District shall receive from the state as pay for his services the sum of Five Thousand Five Hundred (\$5,500.00) Dollars per year, which said Five Thousand Five Hundred (\$5,500.00) Dollars shall include the Five Hundred (\$500.00) Dollars salary per year now allowed such District Attorneys by the constitution of this state. Providing that in all Judicial Districts in this state composed of only one county, having a population of one hundred thousand (100,000) or more inhabitants according to the last preceding Federal Census, the District Attorney of such District shall receive from the state as pay for his services the sum of Six Thousand Five Hundred (\$6,500.00) Dollars per year, which shall include the Five Hundred (\$500.00) Dollars salary per year now allowed such District Attorneys by the constitution of this state; and providing further, that in all Judicial Districts in this state composed of two or more counties, in one of which counties there is a city containing a population of not less than ninety thousand (90,000) inhabitants according to the last preceding Federal Census, the District Attorney of such District shall receive from the state as pay for his services the sum of Six Thousand Five Hundred (\$6,500.00) Dollars per year, which said Six Thousand Five Hundred (\$6,500.00) Dollars shall include the Five Hundred (\$500.00) Dollars salary per year now allowed such District Attorneys by the constitution of the state. Such salary shall be paid in twelve (12) equal monthly installments upon warrants drawn on the Comptroller of Public Accounts upon the State Treasury. Provided that nothing in this Act shall be construed so as to deprive District Attorneys of the expense allowance allowed or which may hereafter be allowed by law.

Sec. 1a. The State's Attorney assigned to and practicing before the Court of Criminal Appeals shall receive from the state as pay for his services the sum of Seven Thousand Two Hundred (\$7,200.00) Dollars

per year, such salary to be paid in twelve (12) equal monthly installments upon warrants drawn on the State Comptroller of Public Accounts upon the State Treasury.

Sec. 2. All fees, commissions and perquisites which may be earned and collected by District Attorneys affected by this Act shall be paid to the County Treasurer of the counties in which such fees are earned for the account of the proper fund. The provisions of this Section shall not apply to Article 7436 and the other provisions of the anti-trust laws of this state.

Sec. 3. Nothing in this Act shall be construed to repeal or in any manner affect any law now in existence with reference to Assistant District Attorneys, investigators or stenographers in Judicial Districts included in this Act.

Sec. 4. Nothing in this Act shall affect Criminal District Attorneys whose District is composed of only one county. As amended Acts 1949, 51st Leg., p. 112, ch. 67, § 1.

Emergency. Effective April 5, 1949.

Section 5 of the act of 1949 made an appropriation.

**Art. 3902i. Counties of 35,000 to 40,000; first assistant or chief deputy to county clerk**

Section 1. In all counties in this State having a population, according to the last preceding or any future Federal Census, of more than thirty-five thousand (35,000) persons and less than forty thousand (40,000) persons and an assessed property valuation, according to the latest approved tax rolls, of not less than Twenty Million Dollars (\$20,000,000) nor more than Thirty Million Dollars (\$30,000,000), the Commissioners Courts of such counties may fix the compensation of the First Assistant or Chief Deputy to the County Clerk of such county at an annual salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) to be paid in twelve (12) equal monthly installments. The salary of such officer from the effective date of this Act, for the remainder of the year 1949, shall be paid on the same ratio basis as the remainder of the year bears to the total annual salary provided herein. Acts 1949, 51st Leg., p. 426, ch. 227.

Emergency. Effective May 20, 1949.

**Title of Act:**

An Act providing that the Commissioners Courts of certain counties may increase the compensation of the First Assistant or Chief Deputy to the County Clerk in such

counties; repealing all laws in conflict herewith; and declaring an emergency. Acts 1949, 51st Leg., p. 426, ch. 227.

Section 2 repealed all conflicting laws and parts of laws.

**Art. 3903e. Seasonal help for district clerk; counties of 30,400 to 31,150**

Section 1. In all counties in this State whose population exceeds thirty thousand, four hundred (30,400) inhabitants, and does not exceed thirty-one thousand, one hundred and fifty (31,150) inhabitants, according to the last preceding Federal Census, the district clerks of such counties shall be authorized to employ seasonal employees whose total compensation shall not exceed Five Hundred Dollars (\$500) per annum where such district clerks are not allowed regular full-time deputies by their respective Commissioners Court.

Sec. 2. The Commissioners Court of such county shall approve the employment of such seasonal employees and order their salaries paid out of the general funds of such counties upon written request of the district clerks to the Commissioners Court of such respective county.

Sec. 3. This Act is cumulative of all other Acts providing for the payment of salaries of deputies, assistants and employees in the offices of

the district clerks of such counties, and nothing herein provided shall be construed as limiting or diminishing such compensation as is now fixed by law, but it is the intention of the Legislature that a minimum of Five Hundred Dollars (\$500) per year shall be allowed such district clerks for the purpose of enabling them to employ seasonal help during rush periods. Acts 1949, 51st Leg., p. 446, ch. 240.

Emergency. Effective May 21, 1949.

**Art. 3912e. Method of compensation of district and certain designated county and precinct officers**

**Commissioners' Court to fix salaries of certain officers; increase**

**Sec. 13.**

(b) The compensation of a criminal district attorney or county attorney performing the duties of a district attorney, together with the compensation of his assistants, shall be paid out of the County Officers' Salary Fund; but the state shall pay into such fund each year an amount equal to a sum which bears the same proportion to the total salary of such criminal district attorney or county attorney performing the duties of a district attorney, together with the salary of his assistants, as all felony fees collected by such official during the year of 1935 bear to the total fees collected by such official during such year.

In all counties having a county attorney or a criminal district attorney performing the duties of district attorney, and in which counties there were no felony fees collected from the state in 1935 by the office of county attorney or criminal district attorney in such county, the state shall pay into the County Officers' Salary Fund each year an amount equal to forty-eight and three-fourths (48-3/4%) percent of the total salary paid each year to such county attorney or criminal district attorney, together with the salary of his assistants. As amended Acts 1949, 51st Leg., p. 90, ch. 54, § 1.

Emergency. Effective March 25, 1949.

**Commissioners' Court to fix salaries of county and precinct officers in counties of less than 20,000; increase**

**Sec. 15.**

(a) The compensation of a criminal district attorney, or county attorney who performs the duties of district attorney, together with the compensation of his assistants, shall be paid out of the County Officers' Salary Fund; but the state shall pay into such fund each year an amount equal to a sum which bears the same proportion to the total salary of such criminal district attorney, or county attorney performing the duties of a district attorney, together with the salary of his assistants, as all felony fees collected by such official during the year of 1935 bear to the total fees collected by such official during such year.

In all counties having a county attorney or a criminal district attorney performing the duties of district attorney, and in which counties there were no felony fees collected from the state in 1935 by the office of county attorneys or criminal district attorney in such county, the state shall pay into the County Officers' Salary Fund each year an amount equal to forty-eight and three-fourths (48-3/4%) percent of the total salary paid each year to such county attorney or criminal district attorney, together with the salary of his assistants. As amended Acts 1949, 51st Leg., p. 90, ch. 54, § 2.

Emergency. Effective March 25, 1949.

**Precinct officers' fees continued, salary basis****Sec. 17.**

(b). In counties where it shall have been determined that precinct officers shall be compensated on an annual salary basis it shall be the duty of the Commissioners Court of such county to fix the salary allowed to such officers. Each of said officers shall be paid in money an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year 1935, and not more than the maximum amount, plus twenty-five per cent (25%) thereof, allowed such officer under laws existing August 24, 1935.

In counties in which precinct officers are paid in salary as compensation for their services, such officers desiring to appoint one or more deputies or assistants shall make application to the Commissioners Court for authority to appoint such deputy or deputies, in the manner and form prescribed for applications for deputy county officers by Article 3902, Revised Civil Statutes 1925, as amended within the provisions of this Act; the Commissioners Court shall not authorize the appointment of any deputy constable at a salary exceeding Fifteen Hundred Dollars (\$1500) per year. The salaries of deputies authorized to be appointed under the provisions of this Section shall be paid out of the Officers' Salary Fund.

In counties wherein the county officers named in this Act are compensated on the basis of an annual salary, the State of Texas shall not be charged with, and shall not pay any fee or commission to any precinct officer for any services by him performed, but said officer shall be paid by the County out of the Officers' Salary Fund such fees and commissions as would otherwise be paid him by the State for such services.

(b) 1. Provided however the provisions of this Act shall not apply to Counties having a population of over one hundred and fifty thousand (150,000) inhabitants according to the last preceding Federal or Special Census.

(b) 2. Provided however that no provision of this Act shall apply to Counties having a population of less than seventy-five thousand (75,000) according to the last Federal or Special Census. As amended Acts 1949, 51st Leg., p. 474, ch. 257, § 1.

Emergency. Effective May 23, 1949.

**Art. 3912e—4a. District and county officers in counties of over 355,000; compensation; assistants to county treasurer and district attorneys**

This article extended to counties having population of 355,000, see art. 3912e—4b.

**Art. 3912e—4b. Application of art. 3912e—4a extended**

Section 1. The provisions of the Acts of 1945, Forty-ninth Legislature, page 122, Chapter 85,<sup>1</sup> shall hereafter apply to all counties having a population of three hundred and fifty-five thousand (355,000) inhabitants or more, according to the last preceding or any future Federal Census.

Sec. 2. This Act shall not be construed to repeal or limit the provisions of House Bill No. 324 of the present Session of the Legislature;<sup>2</sup> nor shall it be construed to affect or repeal the provisions of any other laws relating to the subject matter of said Acts, 1945, Forty-ninth Legislature, page 122, Chapter 85, except to the extent of a conflict with prior Acts; it

being the intention of this Act to enlarge the scope of the classification of the Acts of 1945 above-mentioned without affecting other Acts adopted at the present Session of the Legislature except to the extent of an irreconcilable conflict. Acts 1949, 51st Leg., p. 374, ch. 198.

<sup>1</sup> Art. 3912e—4a.

<sup>2</sup> Art. 3912e—14.

Emergency. Effective May 14, 1949.

**Art. 3912—14. Counties of over 350,000; assistants of district attorneys and criminal district attorneys**

Section 1. In all counties having a population of three hundred and fifty thousand (350,000) or more, according to the last preceding Federal Census, if the District Attorney or Criminal District Attorney be of the opinion that the amount of the salaries, the number of assistants, stenographers, investigators, or other employees now provided by law for his office is not adequate for the proper investigation and prosecution of crime and the efficient performance of the duties of his office, he may, with the advice and approval of the Commissioners Court, increase the salaries heretofore authorized by law, appoint additional assistants, stenographers, investigators, or other employees and fix their salaries.

Sec. 2. Before such increases in salaries or additional appointments shall become effective, they shall be approved by the Commissioners Court and County Auditor of such county. All of the salaries shall be paid from the Officers' Salary Fund if adequate; if inadequate, the Commissioners Court may pay such salaries out of the General Fund, the Jury Fund, or any other funds available for the purpose. Provision for the payment of such additional sums may be made by supplemental budget as now provided by law, if not otherwise provided for.

Sec. 3. This Act shall be cumulative of all laws in force on its effective date or subsequently enacted with respect to reports, auditing, accounts, budgets, and approval and disapproval of claims for salaries, compensation or other expenses, and all such laws shall remain in full force and effect, except as otherwise especially provided herein. The County Auditor, as the Budget Officer of said counties and the Commissioners Court, shall prepare supplemental budget of said County to make proper provision for the payment of the increases in salaries or payment of salaries of additional authorized employees in accordance with the provisions of law regulating the budget. Acts 1949, 51st Leg., p. 189, ch. 106.

Emergency. Effective May 3, 1949.

This article not repealed or limited, see art. 3912e—4b.

**Art. 3912e—15. Counties of 301,000 to 398,000; compensation of employees, deputies and assistants**

Section 1. The provisions of this Act shall apply to and control in each of the counties of this State having a population of not less than three hundred and one thousand (301,000) inhabitants, nor more than three hundred and ninety-eight thousand (398,000) inhabitants according to the last preceding or any future Federal Census, and to justice precincts in such counties having a population of not less than two hundred thousand (200,000) inhabitants according to the last preceding or any future Federal Census.

Sec. 2. The effective date of this Act shall be January 1, 1950.

Sec. 3. This Act shall apply to the employees, deputies and assistants of the following named offices of said counties, to wit: District

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

Judges, District Attorney or Criminal District Attorney, District Clerk, County Judge, Sheriff, Tax Assessor-Collector, County Clerk, County Treasurer, County Commissioners, County Auditor, and to Justices of the Peace and Constables of such counties whose offices are located in the Courthouse of such counties and whose precincts shall contain not less than two hundred thousand (200,000) inhabitants according to the last preceding or any future Federal Census and who are compensated on a salary basis.

Sec. 4. The County Commissioners Court shall grant to each of the offices named in this Act a minimum budget appropriation for deputy clerk hire of not less than the payroll for March, 1949, of said office multiplied by twelve (12) months plus an additional fifteen per cent (15%).

Sec. 5. Each and every employee who is on the payroll of any of said offices when this Act becomes effective shall receive a fifteen per cent (15%) increase in salary provided said employee was on any part of the March, 1949, payroll of said office.

Sec. 6. The officials of the offices named in this Act must submit to the County Commissioners Court the number of positions and salary of each position which are necessary to perform the duties of said office and the County Commissioners Court shall approve said positions and salaries provided the total of said positions and salaries does not exceed the annual budget appropriation for deputy clerk hire for said office.

Sec. 7. Should any portion, paragraph, Section, sentence, clause, phrase or word in this Act be unconstitutional or void, it shall not affect any other portion of this Act. The Legislature expressly declares the provisions of this Act to be severable. Acts 1949, 51st Leg., p. 586, ch. 315.

Section 8 of the act of 1949 read as follows: "All laws in conflict with any of the provisions of this Act are hereby repealed, as to all counties coming within the purview of this Act."

**Art. 3912e—16. County officers in counties of 90,000 to 145,000; county attorneys in counties of 145,000 to 250,000**

Section 1. In all counties in this State having a population of more than ninety thousand (90,000) persons according to the last preceding Federal Census, and not more than one hundred, forty-five thousand (145,000) population according to such Federal Census and with a taxable valuation for county purposes of not less than Eighty-five Million Dollars (\$85,000,000) according to the tax rolls as prepared by the tax assessor-collector of the respective counties for the year 1948, the county judge, county clerk, sheriff, tax assessor-collector, district clerk, the criminal district attorney or the county attorney performing the duties of a district attorney and the county attorney shall receive an annual salary of Six Thousand, Five Hundred Dollars (\$6,500) payable in equal monthly installments. The salary of such officers from the effective date of this Act, for the remainder of the year 1949, shall be paid on the same ratio basis as the remainder of the year bears to the total annual salary provided herein.

Sec. 2. In all counties in this State having a population of not less than one hundred, forty-five thousand (145,000) and not more than two hundred, fifty thousand (250,000) inhabitants according to the last preceding Federal Census, and with a taxable valuation for county purposes of not less than Eighty-five Million Dollars (\$85,000,000) according to the tax rolls as prepared by the tax assessor-collector of the respective counties for the year 1948, the county attorney of such counties shall

receive an annual salary of Seven Thousand, Four Hundred Dollars (\$7,400) payable in equal monthly installments from the Officers' Salary Fund in such counties.

Sec. 3. All such salaries shall be paid in twelve (12) equal installments per year and paid from funds now provided by law for payment of such officials.

Sec. 4. If any part, Section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have enacted, and does here now enact such remaining portions despite any such invalidity.

Sec. 5. This Act is not intended and shall not be considered or construed as repealing any laws or law now on the Statute book except those in conflict herewith, and to the extent of the conflict only, but in other respects shall be construed as being cumulative law. Acts 1949, 51st Leg., p. 960, ch. 528.

Emergency. Effective July 1, 1949.

Title of Act:

An Act fixing the salaries of certain officials in certain counties; repealing all laws

in conflict herewith; and declaring an emergency. Acts 1949, 51st Leg., p. 960, ch. 528.

**Art. 3912f—4. Salaries of sheriffs and deputies in counties of 43,900 to 44,000 population**

In all counties having a population of not less than forty-three thousand, nine hundred (43,900) and not more than forty-four thousand (44,000) according to the last preceding Federal Census the sheriff of such counties shall receive an annual salary not to exceed Six Thousand, Five Hundred Dollars (\$6,500). The chief deputy sheriff of such counties shall receive an annual salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600). All other deputy sheriffs of such counties shall receive annual salaries not to exceed Three Thousand Dollars (\$3,000). Acts 1949, 51st Leg., p. 1196, ch. 606, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

Section 2 of the Act of 1949 repealed all conflicting laws and parts of laws.

Title of Act:

An Act fixing the salaries of the sheriff and deputy sheriffs in certain counties; repealing all laws to the extent of the conflict; and declaring an emergency. Acts 1949, 51st Leg., p. 1196, ch. 606.

**Art. 3912g. Increase of compensation of precinct, county and district officers and employees**

Section 1. The Commissioners Court in each county of this State is hereby authorized, when in their judgment the financial condition of the county and the needs of the officer justify the increase, to enter an order increasing the compensation of the precinct, county and district officers, or either of them, in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1948, whether paid on fee or salary basis; provided, however, the members of the Commissioners Court may not raise the salaries of any of such Commissioners Court under the terms of this Act without raising the salary of the remaining county officials in like proportion.

Sec. 2. The Commissioners Court in each county of this State 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 any such deputy, assistant or clerk in

an additional amount not to exceed thirty-five (35%) per cent of the sum allowed under the law for the fiscal year of 1948.

Sec. 3. All of such officers who were paid on a fee basis during the fiscal year of 1948, and who are now to be paid on a salary basis, shall be paid an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year of 1935, and not more than the maximum sum allowed such officer under the laws existing on August 24, 1948, together with the twenty-five (25%) per cent increase allowed by this Act within the discretion of the Commissioners Court.

Sec. 4. Before the Commissioners Court shall be authorized to change the salary of the public officials provided for in this Act, said Court shall publish at least once a week for three (3) consecutive weeks in a newspaper in the respective county, notice of their intention to make changes of salaries of those affected.

Sec. 5. The provisions of this Act shall be cumulative of all other laws pertaining to salaries of county and precinct officers and their deputies and assistants.

Sec. 6. If any section, subsection, paragraph, or portion of this Act is held invalid, such holding shall not affect the validity of the remaining portions of the Act; and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity. Acts 1949, 51st Leg., p. 601, ch. 320.

Emergency. Effective June 6, 1949.

#### Art. 3912h. Salaries in counties of 398,000 or more

Section 1. In all counties having a population of three hundred and ninety-eight thousand (398,000) or more, according to the last preceding or any future Federal Census, the provisions of this Act shall control as to the amounts of the salaries to be paid the officers named herein. All such salaries shall be fixed by the Commissioners Court of such counties, within the limitations herein provided, not oftener than once each year, by an order made and entered in the minutes of said Court. The salaries of all of such officers shall be determined and fixed at the same time. Such salaries shall be payable in monthly installments out of such funds as may be lawfully available for the purpose as provided in the order of the Commissioners Court.

Sec. 2. The County Judge, the Sheriff, the District Attorney or Criminal District Attorney, as the case may be, the District Clerk, the County Clerk and the Assessor and Collector of Taxes in such counties shall receive a salary of not less than Seven Thousand, Seven Hundred Dollars (\$7,700) and not more than Nine Thousand, Nine Hundred Dollars (\$9,900) each per annum. The compensation fixed for the Sheriff or Constable shall be exclusive of any reward received for the apprehension of any criminal fugitive from justice and rewards received for the recovery of stolen property.

Sec. 3. The County Treasurer of such counties shall receive an annual salary of not less than Three Thousand, Nine Hundred Dollars (\$3,900) nor more than Five Thousand Dollars (\$5,000) per annum for his services in handling county funds. Where such Treasurer also acts as treasurer of any navigation district, or drainage districts, he shall receive and be entitled to retain such compensation from such districts as may be provided by law regulating such districts, in addition to his salary for acting as Treasurer of the county.



Sec. 4. Judges of any County Courts at Law and County Criminal Courts irrespective of any slight variation in the names of such courts, in such counties shall each receive a salary of not less than Six Thousand, Five Hundred Dollars (\$6,500) and not more than Eight Thousand, Two Hundred and Fifty Dollars (\$8,250) per annum. Acts 1949, 51st Leg., p. 760, ch. 408; as amended Acts 1949, 51st Leg., p. 1179, ch. 593, § 1.

Emergency. Effective June 14, 1949, July 22, 1949.

The amendment of section 4 of this article by Acts 1949, 51st Leg., p. 1179, ch. 593, § 1, added the words "and County Criminal Courts".

CHAPTER TWO—ENUMERATION

Art. 3936g. Justices of the peace and constables; counties with eight district courts and four county courts [New].

Art. 3936h. Salaries of justices of the peace in cities of 350,000 population [New].

Art. 3924. 3847, 1011 Clerk of Civil Appeals

The Clerks of the Courts of Civil Appeals shall receive the following fees:

1. For the filing of records, applications, motions, briefs and other necessary and proper papers; for the docketing and docket and minute book entries; for issuing notices, citations, processes and mandates; for preparing transcript on application for writ of error to Supreme Court of Texas; and for the performance of other proper and necessary clerical duties in cases before the Court, they shall receive the fee set out opposite each class of the following cases:

(a) In cases appealed to and filed in the Court of Civil Appeals from the district and county courts within its Supreme Judicial District ..... \$25.00

(b) Motion for leave to file petition for writ of mandamus, prohibition, injunction and other like proceedings originating in the Court of Civil Appeals ..... 10.00

(c) If motion for leave to file petition for writ of mandamus, prohibition, injunction and other like proceedings be granted, an additional fee of ..... 15.00

(d) Motion to file or to extend time to file record on appeal from district or county court—if motion granted and record subsequently filed, this deposit to apply on fee provided in 1 (a) ..... 5.00

2. Administering an oath or affirmation ..... .50

3. Administering an oath or affirmation and giving certificate thereof with seal ..... 1.00

4. Making certified copy of any papers, judgments or orders on file or of record in their offices, including certificate and seal, for each 100 words ..... .15

5. Comparing any document with the original of any papers, judgments or orders on file or of record in their offices, for purpose of certifying thereto, for each page ..... .10

6. For certificate and seal, where same is necessary..... .50

Provided the Supreme Court may by order or rule fix a reasonable fee for any official service performed by the Clerks of the Courts of Civil Appeals not otherwise provided herein.

The Supreme Court shall provide by order or rule for the making of deposits to cover the costs in cases before the Courts of Civil Appeals as classified above, but nothing herein shall be construed as requiring a deposit in any case in which the petitioner, relator, appellant, or movant in

the Courts of Civil Appeals is exempt from the giving of a bond. As amended Acts 1949, 51st Leg., p. 142, ch. 86, § 1.

Emergency. Effective April 26, 1949.

Deposits for costs in Courts of Civil Appeals, see Vernon's Texas Rules of Civil Procedure, Rule 388-A, effective March 1, 1950, and superseding the special Order of the Supreme Court of May 13, 1949 relating to deposits to cover costs.

The Supreme Court, by Order of May 13, 1949, provided as follows:

"In compliance with the provisions of House Bill 137 enacted by the Fifty-first Legislature, which became effective April 26, 1949 [Acts 1949, 51st Leg., p. 142, ch. 86, amending Article 3924], the Supreme Court of Texas makes the following order with reference to deposits to cover costs in cases filed in the several Courts of Civil Appeals.

"When the record in an appeal or writ of error is filed with the clerk of the Court of Civil Appeals from within its Supreme Judicial District, the appellant shall deposit with the clerk the sum of \$25.00 as costs in the Court of Civil Appeals. If separate appeals are taken in the same case, a deposit of \$25.00 shall be made by the appellant or appellants in each separate appeal; but where more than one party joins in the same appeal, only one deposit of \$25.00 shall be required of all such joint appellants. In all proceedings for writs of mandamus, prohibition, injunction, and other like proceedings originating in the Court of Civil Appeals, the petitioner, upon the filing of the motion for leave to file, shall deposit with the clerk the sum of \$10.00 as costs, and if the leave to file is granted, he shall deposit the additional sum of \$15.00 to cover the costs in the Court of Civil Appeals. In a proceeding for an extension of time for filing a record on appeal or writ of error, or to direct the clerk to file a record on appeal or writ of error, the movant, upon the filing of the motion, shall deposit with the clerk the sum of \$5.00 as costs, and if the extension of time is granted, or the record is ordered filed, and the record is subsequently filed pursuant to such order, the appellant shall deposit with the clerk the additional sum of \$20.00 to cover the costs in the Court of Civil Appeals, and no further deposit for costs in the Court of Civil Appeals will be required. No deposit will be required on a second or subsequent

motion to file or to extend the time for filing a record.

"Upon motion for affirmance by certificate under Rule 387 [Texas Rules of Civil Procedure], the appellee shall deposit the sum of \$10.00 upon the filing of the certificate and motion to affirm thereon, and such deposit shall cover all costs in the Court of Civil Appeals by reason of such proceeding.

"The court may dismiss a proceeding for failure to make proper deposit for costs; provided, however, that no such deposit shall be required of any party who, under these rules or the statutes, is not required to give security for costs. If any party is unable to pay the costs as above required, he may make affidavit of his inability to do so and deliver it to the clerk of the Court of Civil Appeals simultaneously with the tender of the record, petition, or motion. Contest of such affidavit in the Court of Civil Appeals shall be governed by the provisions of Rule 355 [Texas Rules of Civil Procedure]. If the appellant has filed in the trial court an affidavit of inability to pay costs as required by Rule 355, then he shall be entitled to file the record in the Court of Civil Appeals without making an affidavit in that court.

"The party applying for a writ of error in the Supreme Court shall deposit with the clerk of the Court of Civil Appeals a sum sufficient to pay the expressage or carriage of the record to and from the clerk of the Supreme Court, but this sum shall not be charged as a cost of suit.

"In any proceeding filed on or after April 26, 1949, the clerk of the Court of Civil Appeals shall not assess any fees or costs heretofore authorized by the Rules of Practice and Procedure in Civil Actions as costs of appeal, except as authority to make such charges is given by House Bill 137 enacted by the Fifty-first Legislature, or by the order of this Court dated April 27, 1949, or by this order. In all proceedings filed in the Courts of Civil Appeals prior to April 26, 1949, the costs shall be assessed in accordance with the statutes and rules in effect on the date of filing the proceeding.

"This order supersedes the order of this Court dated April 27, 1949."

### Art. 3936g. Justices of the peace and constables; counties with eight district courts and four county courts

In all counties in the State of Texas having at least eight (8) District Courts, at least two (2) of which are Criminal District Courts, and at least four (4) County Courts, at least two (2) of which are County Courts at Law and at least one (1) is a County Criminal Court, the salaries of all constables and justices of the peace shall be fixed by the Commissioners Court of such counties at any amount not to exceed Six Thousand, Five Hundred Dollars (\$6,500) per annum. Such salaries to be paid out

of the General Fund of the county. Provided further that the salaries of the constables and justices of the peace of Precincts 1 and 7 in such counties shall not be less than Four Thousand, Seven Hundred and Fifty Dollars (\$4,750). Acts 1949, 51st Leg., p. 233, ch. 130, § 1.

Emergency. Effective May 9, 1949.

**Title of Act:**

An Act providing for salaries of constables and justices of the peace in counties having at least eight (8) District Courts, two (2) of which are Criminal District Courts, and at least four (4) Coun-

ty Courts, two (2) of which are County Courts at Law and one (1) is a County Criminal Court; repealing all laws and parts of laws in conflict; and declaring an emergency. Acts 1949, 51st Leg., p. 233, ch. 130.

**Art. 3936h. Salaries of justices of the peace in cities of 350,000 population**

**Section 1.** In all counties of this State in which there is situated a city having a population in excess of three hundred and fifty thousand (350,000) inhabitants, according to the last preceding Federal Census, and in which the Justices of the Peace are compensated on a salary basis, the Commissioners Courts of such counties shall fix the salaries of the Justices of the Peace in Justice precincts which are situated in or include a city or a part thereof, having a population in excess of three hundred and fifty thousand (350,000) inhabitants, according to the last preceding Federal Census, at not less than Four Thousand, Five Hundred Dollars (\$4,500) and not more than Seven Thousand, Five Hundred Dollars (\$7,500) per annum. Said salaries shall be paid in twelve (12) monthly installments, provided however, that the salaries of the Justices of the Peace from the effective date of this Act for the remainder of the year 1949 shall be paid in the same ratio basis as the remainder of the year bears to the total annual salaries provided herein, and shall be paid in monthly installments.

**Sec. 2.** In the event that any section, subsection, paragraph, sentence, clause, phrase, or word of this Act shall be held invalid or inoperative, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity. Acts 1949, 51st Leg., p. 571, ch. 308.

Emergency. Effective June 3, 1949.

Section 3 of the Act of 1949 repealed all conflicting laws and parts of laws.

**Art. 3937. 3871 Tax assessor**

Each Assessor of Taxes shall receive the following compensation for his services, which shall be estimated upon the total value of the property assessed as follows: For assessing the State and county Taxes on all sums for the first Five Million (\$5,000,000.00) Dollars, or less, Five Cents (5¢) for each One Hundred (\$100.00) Dollars of property assessed; and on all sums in excess of Five Million (\$5,000,000.00) Dollars and less than One Hundred Million (\$100,000,000.00) Dollars, Three and One-half Cents (3½¢) on each One Hundred (\$100.00) Dollars of property assessed; on all sums in excess of One Hundred Million (\$100,000,000.00) Dollars, Two and One-quarter Cents (2¼¢) on each One Hundred (\$100.00) Dollars. One-half of the above fee shall be paid by the State and one-half by the county. For assessing the taxes in all drainage districts, road districts, or other political subdivisions of the county, the Assessor shall be paid Three-fifths (¾) of One Cent for each One Hundred (\$100.00) Dollars of the assessed values of such districts or subdivisions; provided such compensation as is paid to the Assessor shall be prorated among the various drainage districts, road districts, or other

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

political subdivisions of the county according to the value of the property assessed in each district, or other political subdivision; and for assessing the poll tax, Five (5¢) cents for each poll, which shall be paid by the State. The Commissioners Court shall allow the Assessor of Taxes such sums of money to be paid monthly from the county treasury as may be necessary to pay for clerical work, taking assessments, and making out the tax rolls of the county, (such sums so allowed to be deducted from the amount allowed to the Assessor as compensation upon the completion of said tax rolls); provided the amount allowed the Assessor by the Commissioners Court shall not exceed the compensation that may be due by the county to him for assessing. As amended Acts 1949, 51st Leg., p. 829, ch. 448, § 1.

Emergency. Effective June 19, 1949.  
Section 3 of the amendatory act of 1949 read as follows: "Nothing in this Act shall change or increase the maximum limit of salaries of Assessors and Collec-

tors of Taxes as now fixed by the law of Texas."

Section 4 repealed all conflicting laws and parts of laws.

#### Art. 3939. 3872-7654—5 Tax collector

There shall be paid for the collection of taxes as compensation for the services of the Collector, beginning with the first day of September of each year, five (5%) per cent of the first Twenty Thousand (\$20,000.00) Dollars collected for the State, and two (2%) per cent on all taxes collected for the State over said sum; for collecting the county taxes, five (5%) per cent on the first Ten Thousand (\$10,000.00) Dollars collected, and two (2%) per cent on all such county taxes collected over said sum. For collecting the taxes in all drainage districts, road districts, or other political subdivisions of the county, the Tax Collector shall be paid one-half of one (1/2%) per cent on all such taxes collected; provided that the amount to be paid the Tax Collector shall be paid by the various drainage districts, road districts, or other political subdivisions of the county on a pro-rata basis in accordance with the amount collected for such districts; and in counties owing subsidies to railroads the Collector shall receive only one (1%) per cent for collecting such railroad taxes; and in cases where property is levied upon and sold for taxes, he shall receive the same compensation as allowed by law to sheriffs or constables on making the levy and sale in similar cases, but in no case to include commission on such sales; and on all occupation and license taxes collected, five (5%) per cent; for issuing statement of ad valorem taxes due the Collector shall not be entitled to charge any fee; and for each ad valorem tax certificate issued, to bear his seal of office, the Collector shall charge Fifty (50¢) Cents to be paid by the applicant therefor. As amended Acts 1949, 51st Leg., p. 829, ch. 448, § 2.

Emergency. Effective June 19, 1949.

**TITLE 63—FIRE ESCAPES**

Art.

3959a. Enforcement of Article 3959 [New].

**Art. 3959. State, county, city and school buildings.**

A. Each building which is or may be constructed within this State of three (3) or more stories in height, except a schoolhouse hereinafter provided for, which is owned by this State, or by any city or county, and in which building public assemblies are permitted or intended to be permitted, or in which sleeping apartments are permitted or intended to be permitted, on any floor above the first, shall be provided and equipped with at least one adequate fire escape if the lot area of such building shall not exceed five thousand (5000) square feet, and one additional adequate fire escape for each five thousand (5000) square feet, or fraction thereof if said fraction exceeds two thousand (2000) square feet in excess of the first five thousand (5000) square feet of lot area.

B. Each school building which is or may be constructed within this State of two (2) or more stories in height, which is owned by any school district, and in which schools of any kind are conducted, shall be provided and equipped with an adequate fire escape or fire escapes to the extent and in accordance with requirements as follows:

**DEFINITIONS**

The following terms, words, and phrases as used in subdivision B of this Article shall have the following meanings unless a different meaning is plainly required by the context:

a. "Story" means the space included between two (2) successive floor levels except that a basement shall be construed as a story only when the floor level immediately above the basement is ten (10) feet or more above grade line on one or more sides of the building.

b. Types of construction shall be, for purpose of application of this law, classified as follows: "Fireproof," "semi-fireproofed," and "ordinary" as defined in the latest edition of the Building Code Recommended By The National Board Of Fire Underwriters.

**NUMBER AND TYPES OF FIRE ESCAPES REQUIRED**

a. Any school building three (3) stories or more in height of "fireproof construction," "semi-fireproof construction," or "ordinary construction" shall have one fire escape for every two hundred and fifty (250) pupils or major fraction thereof housed in the building above the first floor.

b. Any school building two (2) stories in height of "ordinary" construction shall have one fire escape for every two hundred and fifty (250) pupils housed above the first floor, or major fraction thereof.

c. Fire escapes for school buildings heretofore constructed may be either of the interior type, specifications for which are now provided in Article 3966, Title 63, Revised Civil Statutes, 1925, or exterior type as in this amendment hereinafter described. Exterior type fire escapes shall be free from obstruction, shall be constructed so as to secure a safe exit for children, shall be conveniently accessible from each floor above first, and shall be of sufficient width and strength so that each step and landing may accommodate two (2) adult persons at the same time. The exits from each floor shall consist of doorways, the base of which shall be at the same level as the corresponding floor of such building and the land-

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

ing of the fire escape to which it leads, provided the State Department of Education approves such to be a convenient and safe passage. Each such doorway shall be not less than three (3) feet wide nor less than six (6) feet six (6) inches high, and shall be fitted with panic hardware approved by the National Board of Fire Underwriters. If there shall be two (2) or more rooms or hallways, or room and hallway, adjoining and convenient to the landing of a fire escape, each such room or hallway shall have a doorway leading to such landing.

d. Fire escapes for new school building of three (3) stories or more in height, of "fireproof" construction, shall be interior, specifications for which are now provided in Article 3966, Title 63, Revised Civil Statutes, 1925.

New school buildings hereinafter constructed and existing school buildings heretofore constructed of two (2) stories and less in height, of "fireproof" or "semi-proof" construction, or having stairways and hallways of either of these types shall not be required to have fire escapes.

New school buildings hereinafter constructed of two (2) stories or more in height of 'ordinary' construction shall have interior types of fire escapes, specifications for which are now provided in Article 3966, Title 63, Revised Civil Statutes, 1925.

#### DESCRIPTION OF FIRE ESCAPES

a. Exterior fire escapes for the purpose of subdivision B of this amended Article shall be of the following construction, or similar ones approved by the National Board of Fire Underwriters.

(1). They shall be of incombustible materials throughout.

(2) They shall be designed for a live load of one hundred (100) pounds per square foot. The calculated live load shall be clearly stated on the plans submitted for approval.

(3) As a rule, fire escapes shall be supported by vertical steel columns. Where such construction is not possible because of conditions the use of steel brackets with bolts extending through the entire thickness of the wall may be approved.

(4) Landings and treads shall be of solid hatched steel plate or of steel gratings with interstices not exceeding three-fourths (3/4) inches and so designed that the accumulation of snow and ice will be reduced to a minimum.

(5) Guard rails shall be at least three (3) feet six (6) inches in height and shall be substantially constructed. They shall be faced with heavy wire mesh, or steel balusters or rails not more than nine and one-half (9 1/2) inches o. c. may be used.

(6) There shall be handrails on each side of the stairs, securely attached to the guard rails or to the building walls. Handrails shall be two (2) feet four (4) inches to two (2) feet six (6) inches above the nosings.

(7) On present existing structures exterior type fire escapes, for the purpose of subdivision B of this amended Article, shall be an iron, steel or concrete stairway type fire escape, or an iron or steel straight chute type fire escape, or an iron or steel spiral chute type fire escape, or a combination of said three (3) types of fire escapes.

(8) Exterior type fire escapes, for the purpose of subdivision B of this amended Article, may be an iron or steel straight chute type fire escape or an iron or steel spiral chute type fire escape.

b. Design of interior fire escapes in addition to the specifications set out in Article 3966, Title 63, Revised Civil Statutes, 1925, shall be as follows:

(1) Stairs and landings shall be not less than three (3) feet six (6) inches long and not less than three (3) feet wide.

(2) Treads shall be not less than nine (9) inches wide plus a nosing of one (1) inch. Risers shall be not more than seven and one-fourth (7 1/4) inches.

(3) There shall be not more than a nine (9) foot six (6) inch rise in a single run. Longer runs shall be interrupted by landings at least as deep as the width of the stairs.

(4) Stairs shall extend continuously to the ground. Counterbalanced and swinging sections will not be approved.

c. Exits of exterior fire escapes shall be as follows:

(1) Doors leading to fire escapes shall open on landings at least the width of the doors.

(2) Exit doors shall swing outward, shall be at least three (3) feet no inches by six (6) feet six (6) inches, shall be glazed with wire glass, and shall have their bottoms level with the floors of the rooms or corridors and landings they serve. Windows are prohibited as means of access to fire escapes.

(3) Exit doors shall be secure only by panic hardware approved by the National Board of Fire Underwriters. Hooks, latches, bolts, locks, etc. are prohibited.

d. Windows located beneath or within ten (10) feet in any direction of fire escapes shall be glazed with wire glass. As amended Acts 1950, 51st Leg., 1st C.S., p. 112, ch. 43, § 1.

Emergency. Effective March 17, 1950.

Section 3 of the act of 1950 read as follows: "All laws and parts of laws, general or special, in conflict with the provisions of this Act requiring fire escapes in school

buildings, housing the public school children of the State of Texas are hereby repealed to the extent of such conflict."

#### Art. 3959a. Enforcement of Article 3959

The State Fire Marshal shall have general charge and supervision of the enforcement of the provisions of this Act,<sup>1</sup> and it is hereby made his duty and the duty of any Inspector of the State Fire Insurance Commission, and of the Chief of any Fire Department, and of the Fire Marshal of any city or town within this State, to enforce the provisions of this Act by all lawful means. Acts 1950, 51st Leg., 1st C.S., p. 112, ch. 43, § 2.

<sup>1</sup> This article and art. 3959.

**TITLE 65—FRAUDS AND FRAUDULENT CONVEYANCES**

**Art. 4000. 3970, 2548 Chattel mortgage**

Every mortgage, deed of trust, or other form of lien attempted to be given by the owner of any stock of goods, wares or merchandise daily exposed to sale, in parcels, in the regular course of business of such merchandise, and contemplating a continuance of the possession of said goods by said owner, shall be deemed fraudulent and void; provided that this Article shall not apply to farm products when offered for sale by the producer; and further provided that this Article shall not apply to any mortgage, deed or trust or other form of lien given to secure the purchase price of any such goods, wares or merchandise, except as to all retail sales made in good faith in the regular course of business. As amended Acts 1949, 51st Leg., p. 137, ch. 82, § 1.

Emergency. Effective April 19, 1949.

**TITLE 67—FISH, OYSTER, SHELL, ETC.**

<b>Chap.</b>		<b>Art.</b>
<b>4. Gulf States Marine Fisheries [New]</b>	- - - - -	<b>4075a</b>

**CHAPTER TWO—FISH AND OTHER MARINE LIFE**

<b>Art.</b>		<b>Art.</b>
<b>4032b. License to fish in fresh waters [New].</b>		<b>4050c. Removal of rough fish and turtles from public fresh waters [New].</b>

**Art. 4032a. Repealed. Acts 1949, 51st Leg., p. 864, ch. 466, § 14. Eff. 90 days after July 6, 1949, date of adjournment**

**Art. 4032b. License to fish in fresh waters**

**Resident Fishing License.**

Section 1. It shall be unlawful for any resident of this State to fish in any of the fresh waters of this State, outside of the county of his residence and adjacent counties thereto, without first having procured from the Game, Fish and Oyster Commission, or one (1) of its bona fide employees, or a county clerk or an authorized agent, a resident fishing license, the fee for which shall be One Dollar and sixty-five cents (\$1.65). Of this amount, the officer issuing same shall retain fifteen cents (15¢) as his fee for collecting same. No fee or license of any kind shall be required of a person for the right to fish in the county of his residence and counties adjacent thereto except as provided in Section 3 of this Act.

**Non-resident Fishing License.**

Sec. 2. It shall be unlawful for any person who is a non-resident of this State, or any person who is an alien, to fish in the fresh waters of this State without first having procured from the Game, Fish and Oyster Commission, or one of its bona fide employees, or a county clerk or an authorized agent, a non-resident fishing license, the fee for which shall be Five Dollars and twenty-five cents (\$5.25). Of this amount, the issuing officer shall retain twenty-five cents (25¢) as his fee for collecting same. Provided that such non-resident may fish in said waters under a five-day license, the fee for which shall be One Dollar and sixty-five



cents (\$1.65), and which shall be valid for only five (5) consecutive days, including day of issuance, the date of which shall be stated thereon. The issuing officer shall retain fifteen cents (15¢) of said amount as his collecting fee.

**Exceptions.**

Sec. 3. No person under seventeen (17) years of age shall be required to possess any of the licenses provided for in this Act. No resident fishing license shall be required of a resident citizen of this State who holds a commercial fishing license issued in this State. Provided that all residents of this State over the age of seventeen (17) years shall hold a resident fishing license when using artificial bait or lure. Provided further that all residents of this State over the age of seventeen (17) years shall hold a resident fishing license when using live bait outside of the county of his residence.

**Definition.**

Sec. 4. "Non-resident" as used in this Act shall mean any citizen of the United States of America who is not a citizen of the State of Texas and who has not continuously, for six (6) months next preceding issuance of the fishing license to him, been an actual bona fide resident of the State of Texas.

**Duplicate License.**

Sec. 5. In the event the holder of a license provided for in this Act shall have lost such license, or same shall have been destroyed, such license holder may file with the Game, Fish and Oyster Commission or its bona fide employee, or a county clerk, or an authorized agent, an application, in the form of an affidavit as to the facts of such loss or destruction, which affidavit shall contain the serial number of the license so lost or destroyed; whereupon said Commission, or its bona fide employee, or a county clerk, or an authorized agent, may issue to such person a duplicate fishing license, the fee for which shall be fifty cents (50¢). Of this amount, twenty-five cents (25¢) may be retained by the issuing officer as his fee for issuing same.

**Form of License.**

Sec. 6. Each license issued under the provisions of this Act shall have printed across its face, the year for which it is issued, and shall bear the name and address and residence of the person to whom issued, and shall state the approximate weight, height, age, color of hair, and color of eyes of such person, in order that proper identification may be had in the field. Such resident, non-resident and duplicate fishing licenses shall be dated the date of issuance and shall remain in effect until, and including the last day of August thereafter. Non-resident fishing licenses shall have printed thereon the following: "This license does not entitle the holder thereof to fish upon the enclosed and posted lands of another without the consent of the owner or agent." It shall be unlawful for any person to issue or accept any license required by the provisions of this Act, except on a form provided by the Game, Fish and Oyster Commission.

**License Deputies.**

Sec. 7. Any person designated by the Executive Secretary of the Game, Fish and Oyster Commission, its bona fide employees, and the county clerk of each county in this State are hereby authorized to issue any license provided for by this Act, or that may hereafter be provided for, and all persons so issuing licenses shall fill out correctly and preserve for the use of said Commission the stubs attached thereto; and shall keep a complete and correct record of all licenses issued, showing the

name and place of residence of each licensee and the serial number and date of the license issued. The county clerk and all other persons issuing licenses shall, within ten (10) days after the close of each calendar month, prepare a detailed report showing the serial number and date of each license issued during the month covered by the report, and the name and address of the person to whom issued, and shall forward such report, with remittance of fees due the State, to the Game, Fish and Oyster Commission, at Austin, and said Commission shall credit such county clerk, or other person, with the amount so remitted. As soon as possible after the licenses in a license book have all been issued, and only the stubs remain therein, such county clerk or other person shall forward such used license book to the Game, Fish and Oyster Commission, at Austin, in order that said Commission may furnish necessary information regarding holders of licenses to any officers of the State. All unissued licenses shall be returned to the Game, Fish and Oyster Commission, at Austin, when request therefor is made by said Commission.

#### **Disposition of Fees and Fines.**

Sec. 8. All moneys received from the sale of the licenses provided for herein, after the payment of the fees allowed under this Act have been deducted, and all moneys received from penalties assessed for violations of this Act and for violations of fresh water fishing laws not otherwise disposed of by law, after deduction of fees allowed by law, shall be remitted to the Game, Fish and Oyster Commission, at Austin, and be deposited by said Commission in the State Treasury, to the credit of the Special Game and Fish Fund, which fund shall be used for the purpose of building and maintaining fish hatcheries, fairly distributed over the State of Texas, and for the propagation and distribution and protection of fish in the State of Texas, and for the dissemination of information pertaining to the conservation of fish in this State. All expenditures shall be verified by affidavit to the Game, Fish and Oyster Commission; and on the approval of such expenditures by the Executive Secretary of said Commission, it shall be the duty of the Comptroller of the State to draw his warrant on the Treasurer of the State for the amount of such expenditures, in favor of the person claiming the same, such warrant to be paid out of the Special Game and Fish Fund. All moneys and all balances now in such fund from moneys already paid into the State Treasury, or that may hereafter be paid into said fund, are made available as soon as paid into the State Treasury, and are hereby specifically appropriated to the use of the Game, Fish and Oyster Commission, for the several purposes herein specified.

#### **False Swearing.**

Sec. 9. Any person who, in making an affidavit as provided for in this Act, shall knowingly make a false affidavit of fact, shall be deemed guilty of false swearing and shall be punished in accordance with the provisions of Article 310, Penal Code of Texas, 1925.

#### **Fishing Under License of Another.**

Sec. 10. It shall be unlawful for any person to fish under the license issued to any other person, or to permit any other person to fish under a license issued to him.

#### **Effective Date of Act.**

Sec. 11. This Act shall become effective on the first day of September, 1949.

**Penalty.**

Sec. 12. Any person who shall fish in any of the fresh waters of this State, without the license required of him by this Act, or any person who shall fish under the license of another, or who permits another to fish under his license, or who fails or refuses, on demand by any officer, to show such officer his fishing license required of him by this Act, or who shall violate any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than Ten Dollars (\$10), nor more than One Hundred Dollars (\$100).

**Forfeiture.**

Sec. 13. Any person who has been convicted of violating any of the provisions of this Act shall thereby automatically forfeit his fishing license for the remainder of the license period, and shall not be entitled to receive from said Commission, or its agent, a license to fish for one (1) year immediately following the date of his conviction; and it shall be unlawful for any person so convicted to purchase or possess a fishing license or to fish in this State, for a period of one (1) year immediately following date of such conviction. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than Twenty-five Dollars (\$25), nor more than Two Hundred Dollars (\$200).

**Repeal.**

Sec. 14. Article 4032a, Revised Civil Statutes of Texas, 1925, and all other Laws, General, Special or Local, or parts of Laws, in conflict with this Act, are hereby expressly repealed.

**Partial invalidity**

Sec. 15. It is hereby declared to be the Legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any Section, word, clause, sentence or part of this Act shall be declared unconstitutional, shall in no event affect any other Section, word, clause, sentence or part thereof; and it is hereby declared to be the intention of the Legislature to have passed each sentence, Section, clause, or part thereof, irrespective of the fact that any other Section, sentence, clause or part thereof may be declared invalid. Acts 1949, 51st Leg., p. 864, ch. 466.

Effective 90 days after July 6, 1949, date of adjournment. However, see section 11 of the act.

**Art. 4050c. Removal of rough fish and turtles from public fresh waters****Authority of Game, Fish and Oyster Commission**

Section 1. The Game, Fish and Oyster Commission is authorized to take rough fish and turtles from any of the public fresh waters of this State by means of crews operated by the Commission or contracts entered into with individuals, through the use of seines or nets or other devices and under such rules and regulations and contracts as it shall prescribe, when said Commission shall find that rough fish or turtles exist in any such waters in numbers detrimental to the propagation and preservation of game fish.

**Refusal to contract; bond of contractor; compliance with requirements**

Sec. 2. Said Commission shall have the right to refuse to contract under the provisions of this Act with any person whose record, within

said Commission's knowledge, shows repeated violations of the fishing laws of this State of a nature deemed by said Commission to be a flagrant disregard of fish conservation laws. Each person contracting to remove rough fish or turtles shall make a bond with a reliable surety company payable to the State of Texas and approved by the Executive Secretary of said Commission, conditioned upon his faithful performance of the terms of such contract under regulations prescribed by said Commission; and each such person must comply with commercial fishing license, seine and net tag requirements.

**Requisites of contract; termination by breach**

Sec. 3. Each contract entered into hereunder shall state the period of time and the exact location within which such rough fish or turtle removal operations shall be conducted, and the equipment to be used in such removal, and all other Commission regulations pertaining thereto, including the species of rough fish to be removed thereunder. All contracts entered into hereunder shall become null and void and terminate immediately upon breach by the contracting person of any of the terms thereof or of any rule or regulation prescribed by said Commission, or for failure to exercise every reasonable effort to complete the removal of rough fish. Any person whose contract has become null and void and terminated for breach as provided herein shall thereafter be forever disqualified from again contracting with said Commission for the removal of rough fish and turtles.

**Violations by contractor**

Sec. 4. Any contractor who is by his contract authorized to use in waters of this State seines or nets or other devices which he would not be authorized to use in such waters except for said contract, or any contractor who is by his contract authorized to take rough fish from waters from which he would not be permitted to take any fish for sale except for said contract, and who retains or sells any fish, other than those rough fish specified in his contract, in violation of the law applying to the waters in which he is operating, shall be deemed guilty of a breach of his contract under the provisions of this Act, and shall be deemed guilty of a misdemeanor and punished in accordance with the law or laws applying to the waters in which he is fishing.

**Sale or use of fish and turtles removed; disposition of proceeds**

Sec. 5. Rough fish and turtles removed under the provisions of this Act may be sold. Rough fish and turtles taken by Commission operated crews may be used for feed for hatchery fishes and all surplus thereof shall be sold by said Commission at the highest price obtainable. All moneys received from the sale of fish and turtles by said Commission taken hereunder shall be placed in the Special Game and Fish Fund and be continuously available for defraying the expenses and continuing the work of rough fish removal by said Commission.

**Rough fish defined**

Sec. 6. "Rough fish" as used in this Act shall include those fresh-water fishes having no sporting value, the predatory, bony or rough-fleshed species, or any species of fish whose numbers should be controlled in order to protect and encourage game fish; provided, however, that the term "rough fish" shall not include black bass, white bass, crappie, bream, sunfish, channel catfish or yellow catfish, which are, for the purposes of this Act, "game fish." Acts 1949, 51st Leg., p. 783, ch. 422.

Emergency. Effective June 14, 1949.

Section 7 of the act of 1949 read as follows: "All laws or parts of laws, Local,

General or Special, in so far as they conflict with any provision of this Act, are hereby expressly repealed."

**CHAPTER FOUR—GULF STATES MARINE FISHERIES [NEW]**

Art.  
4075a. Gulf States Marine Fisheries Compact.

**Art. 4075a. Gulf States Marine Fisheries Compact****Governor authorized to execute compact**

Section 1. The Governor of this State is hereby authorized and directed to execute a compact on behalf of the State of Texas with any one or more of the States of Florida, Alabama, Mississippi, and Louisiana, and with such other states as may enter into the compact, legally joining therein in the form substantially as follows:

**GULF STATES MARINE FISHERIES COMPACT**

The contracting states solemnly agree:

**Article I**

Whereas the Gulf Coast States have the proprietary interest in and jurisdiction over fisheries in the waters within their respective boundaries, it is the purpose of this compact to promote the better utilization of the fisheries, marine, shell and anadromous, of the seaboard of the Gulf of Mexico, by the development of a joint program for the promotion and protection of such fisheries and the prevention of the physical waste of the fisheries from any cause.

**Article II**

This compact shall become operative immediately as to those states ratifying it whenever any two or more of the states of Florida, Alabama, Mississippi, Louisiana and Texas have ratified it and the Congress has given its consent, pursuant to Article I, Section 10 of the Constitution of the United States. Any state contiguous to any of the aforementioned states or riparian upon waters which flow into waters under the jurisdiction of any of the aforementioned States and which are frequented by anadromous fish or marine species, may become a party hereto as hereinafter provided.

**Article III**

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Gulf States Marine Fisheries Commission. One shall be the head of the administrative agency of such State charged with the conservation of the fishery resources to which this compact pertains; or, if there be more than one officer or agency, the official of that State named by the Governor thereof. The second shall be a member of the Legislature of such State designated by such Legislature, or in the absence of such designation, such legislator shall be designated by the Governor thereof; provided that if it is constitutionally impossible to appoint a legislator as a commissioner from such State, the second member shall be appointed in such manner as may be established by law. The third shall be a citizen who shall have a knowledge of and interest in the marine fisheries, to be appointed by the Governor. This commission shall be a body corporate with the powers and duties set forth herein.

## Article IV

The duty of the said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous, of the Gulf Coast. The commission shall have power to recommend the coordination of the exercise of the police powers of the several States within their respective jurisdictions to promote the preservation of these fisheries and their protection against over-fishing, waste, depletion or any abuse whatsoever, and to assure a continuing yield from the fishery resources of the aforementioned States. To that end the commission shall draft and recommend to the Governors and Legislatures of the various signatory States, legislation dealing with the conservation of the marine, shell and anadromous fisheries of the Gulf seaboard. The commission shall from time to time present to the Governor of each compacting State its recommendations relating to enactments to be presented to the Legislature of that State in furthering the interest and purposes of this compact. The commission shall consult with and advise the pertinent administrative agencies in the States party hereto with regard to problems connected with the fisheries, and recommend the adoption of such regulations as it deems advisable. The commission shall have power to recommend to the States party hereto the stocking of the waters of such States with fish and fish eggs or joint stocking by some or all of the States party hereto, and when two or more States shall jointly stock waters the commission shall act as the coordinating agency for such stocking.

## Article V

The commission shall elect from its number a chairman and vice-chairman and shall appoint, and at its pleasure remove or discharge, such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. Said commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business, and may meet at any time or place; but must meet at least once a year.

## Article VI

No action shall be taken by the commission in regard to its general affairs except by the affirmative vote of a majority of the whole number of compacting States. No recommendation shall be made by the commission in regard to any species of fish except by the affirmative vote of a majority of the compacting States which have an interest in such species. The commission shall define what shall be an interest.

## Article VII

The Fish and Wildlife Service of the Department of the Interior of the Government of the United States shall act as the primary research agency of the Gulf States Marine Fisheries Commission, cooperating with the research agencies in each State for that purpose. Representatives of the said Fish and Wildlife Service shall attend the meetings of the commission. An advisory committee to be representative of the commercial salt water fishermen and the salt water anglers and such other interests of each State as the commissioners deem advisable may be established

by the commissioners from each State for the purpose of advising those commissioners upon such recommendations as it may desire to make.

#### Article VIII

When any State, other than those named specifically in Article II of this compact, shall become a party hereto for the purpose of conserving its anadromous fish or marine species in accordance with the provisions of Article II, the participation of such State in the action of the commission shall be limited to such species of fish.

#### Article IX

Nothing in this compact shall be construed to limit the powers of the proprietary interest of any signatory State, or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by a signatory State, imposing additional conditions and restrictions to conserve its fisheries.

#### Article X

It is agreed that any two or more States party hereto may further amend this compact by acts of their respective Legislatures, subject to approval of Congress as provided in Article I, Section X, of the Constitution of the United States, to designate the Gulf States Marine Fisheries Commission as a joint regulating authority for the joint regulation of specific fisheries affecting only such States as shall so compact, and at their joint expense. The representatives of such States shall constitute a separate section of the Gulf States Marine Fisheries Commission for the exercise of the additional powers so granted, but the creation of such section shall not be deemed to deprive the States so compacting of any of their privileges or powers in the Gulf States Marine Fisheries Commission as constituted under the other Articles of this compact.

#### Article XI

Continued absence of representation or of any representative on the commission from any State party hereto, shall be brought to the attention of the Governor thereof.

#### Article XII

The operating expenses of the Gulf States Marine Fisheries Commission shall be borne by the States party hereto. Such initial appropriations as set forth below shall be made available yearly until modified as hereinafter provided:

Florida	\$3,500.00
Alabama	1,000.00
Mississippi	1,000.00
Louisiana	5,000.00
Texas	2,500.00

Total . . . . \$13,000.00

The proration and total cost per annum of Thirteen Thousand (\$13,000.00) Dollars, above mentioned, is estimative only, for initial operations, and may be changed when found necessary by the commission and approved by the Legislatures of the respective States. Each State party hereto agrees to provide in the manner most acceptable to it, the travel costs and necessary expenses of its commissioners and other representatives to and from meetings of the commission or its duly constituted sections or committees.

Article XIII

This compact shall continue in force and remain binding upon each compacting State until renounced by Act of the Legislature of such State, in such form as it may choose; provided that such renunciation shall not become effective until six months after the effective date of the action taken by the Legislature. Notice of such renunciation shall be given the other States party hereto by the Secretary of State of compacting State so renouncing upon passage of the Act.

**Members of commission**

Sec. 2. In pursuance of Article III of said compact there shall be three members (hereinafter called commissioners) of the Gulf States Marine Commission (hereinafter called commission) from the State of Texas. The first commissioner from the State of Texas shall be the Executive Secretary of the Game, Fish and Oyster Commission of the State of Texas ex-officio, and the term of any such ex-officio commissioner shall terminate at the time the said commissioner ceases to hold said office of Executive Secretary of the Game, Fish and Oyster Commission, and his successor as a member of this commission shall be his successor as Executive Secretary of the Game, Fish and Oyster Commission. The second commissioner from the State of Texas shall be a legislator appointed jointly by the Lieutenant Governor and Speaker of the House of Representatives, and the term of any such ex-officio commissioner shall terminate at the time he ceases to hold said legislative office; and his successor as commissioner shall be named in like manner. The Governor (by and with the advice and consent of the Senate) shall appoint a citizen as a third commissioner, who shall have a knowledge of the marine fisheries problems. The term of said commissioner shall be for a period of three years, and in addition he shall serve until his successor shall be appointed and qualified. Vacancies occurring in the office of such commissioner from any reason or cause shall be filled by appointment by the Governor (by and with the advice and consent of the Senate) for the unexpired term. The Executive Secretary of the Game, Fish and Oyster Commission, as ex-officio commissioner may delegate, from time to time, to any deputy or other subordinate in his department or office, the power to be present and participate, including voting as his representative or substitute at any meeting of or hearing by or other proceeding of the commission. The terms of each of the initial three members shall begin at the date of the appointment of the appointive commissioner, provided the said compact shall then have gone into effect in accordance with Article II of the compact; otherwise they shall begin upon the date upon which said compact shall become effective in accordance with said Article II.

**Powers of commissioners; duties of state officers, bureaus, etc.**

Sec. 3. There is hereby granted to the commission and the commissioners thereof all the powers provided for in the said compact and all the powers necessary or incidental to the carrying out of said compact in every particular. All officers of the State of Texas are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of said compact in every particular; it being hereby declared to be the policy of the State of Texas to perform and carry out the said compact and to accomplish the purposes thereof. All officers, bureaus, departments, and persons of and in the State government or administration of the State of Texas are hereby authorized and directed at convenient times and upon



request of the said commission to furnish the said commission with information and data possessed by them or any of them and to aid said commission by loan of personnel or other means lying within their legal rights respectively.

#### **Powers regarded as supplemental**

Sec. 4. Any powers herein granted to the commission shall be regarded as in aid of and supplemental to and in no case a limitation upon any of the powers vested in said commission by other laws of the State of Texas, or by the terms of said compact.

#### **Accounts and reports**

Sec. 5. The commission shall keep accurate accounts of all receipts and disbursements and shall report to the Governor and the Legislature of the State of Texas on or before the tenth day of February in each year, setting forth in detail the transactions conducted by it during the twelve months preceding January 1st of that year, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the Statutes of the State of Texas which may be necessary to carry out the intent and purposes of the compact between the signatory States.

The Auditor of the State of Texas is hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements, and such other items referring to its financial standing, as such Auditor may deem proper, and to report the results of such examination to the Governor of each State.

#### **Appropriation**

Sec. 6. The sum of Two Thousand Five Hundred (\$2,500.00) Dollars or so much thereof as may be necessary, is hereby appropriated out of the Special Game and Fish Fund for the expenses of the Commission created by the compact authorized by this Act. The monies hereby appropriated shall be out of said Special Game and Fish Fund by warrant drawn by the Comptroller on account sworn to by the Chairman of the Gulf States Marine Fisheries Commission and approved by the Executive Secretary of the Game, Fish and Oyster Commission of the State of Texas.

#### **Severability of provisions**

Sec. 7. If any provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the Act, which can be given effect without the invalid provision or application; and to this end the provisions of this Act are declared to be severable. Acts 1949, 51st Leg., p. 1087, ch. 554.

Emergency. Effective July 15, 1949.

#### **Complementary Laws:**

Alabama—Acts 1947, p. 17.

Florida—Laws 1947, c. 24353, F.S.A. §§  
374.49—374.54.

Louisiana—Acts 1948, No. 329.

## TITLE 69—GUARDIAN AND WARD

### CHAPTER THREE—APPOINTMENT OF GUARDIANS

#### 1. REGULAR APPOINTMENTS

**Art. 4123a—1. Fees or costs; exemption from in cases of receipt of moneys from State or Federal government**

Whenever a guardian is appointed for the purpose of enabling a person to receive public assistance, which is contingent upon need, from the State and/or Federal Government, the court may, in its discretion, order that no costs or fees be charged in connection with the proceeding." As amended Acts 1949, 51st Leg., p. 923, ch. 499, § 1.

Emergency. Effective June 29, 1949.

Section 2 of the amendatory Act of 1949 repealed all conflicting laws and parts of laws.

Section 3 read as follows: "If any section, subsection, paragraph, sentence, clause, phrase, or word in this Act, or ap-

plication 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."

### CHAPTER SIX—POWERS AND DUTIES

**Art. 4168. 4128, 2627, 2546 To collect claims, etc.; contingent fees**

The guardians of all estates shall use due diligence to collect all claims and debts owing to their wards and to recover all property to which their respective wards have claim or title, provided there is a reasonable prospect of collecting such claims or of recovering such property. If any such guardian neglect to use such diligence, he and his sureties shall be liable for all damages occasioned by such neglect. Such guardians may enter into contract to convey, or convey a contingent interest in such property not exceeding one-third thereof for services of attorneys and incidental expenses, subject only to approval thereof by the court in which such guardianship is pending. As amended Acts 1949, 51st Leg., p. 1093, ch. 556, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

### CHAPTER SEVEN—FISCAL MANAGEMENT

Art.

4192a. Repealed.

4192b. Contributions for religious, charitable purposes [New].

**Art. 4192a. Repealed. Acts 1949, 51st Leg., p. 477, ch. 259, § 4. Eff. 90 days after July 6, 1949, date of adjournment**

Article derived from Acts 1945, 49th Leg., p. 117, ch. 80, related to pooling or unitization agreements covering interest in gas rights in lands subject to leases.

Pooling and cooperative agreements in secondary recovery operations, see art. 6008b.

**Art. 4192b. Contributions for religious, charitable purposes**

Section 1. The guardian may file with the County Clerk at any time his sworn application in writing requesting of the Court in which the

guardianship is pending an order authorizing the guardian to contribute from the income of the ward's estate a specific amount of money stated in said application to some one or more designated corporations, trusts or community chests, funds or foundations, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or to some one or more designated non-profit Federal, State, county or municipal projects operated exclusively for public health or welfare. When such an application is filed, the County Clerk shall immediately call the same to the attention of the Judge of the Court, and the Judge shall designate, by written order filed with said Clerk, a day to hear such application, which may be heard in term time or vacation, provided that such application shall remain on file at least ten (10) days before such hearing is held. The Judge may postpone or continue such hearing from time to time until he is satisfied concerning such application. Upon the conclusion of such hearing, if the Court is satisfied and finds from the evidence that the amount of the proposed contribution mentioned in said application will probably not exceed fifteen (15%) per cent of the net income of the ward's estate for the current calendar year, and that the net income of the ward's estate for such year exceeds or probably will exceed Twenty-five Thousand (\$25,000.00) Dollars, and that the full amount of such contribution, if made, will probably be deductible from the ward's gross income, in determining the net income of the ward under the applicable income tax laws, rules and regulations of the United States of America, and that the condition of the ward's estate is such as to justify a contribution in said amount, and that the proposed contribution is reasonable in amount and is for a worthy cause, the Court in its discretion may enter an order authorizing the guardian to make such contribution from income of the ward's estate to the particular donee designated in said application; provided, however, that if at the time of such hearing, the ward be fifteen (15) years or more of age and be of sound mind, no order authorizing such a contribution shall be entered unless there shall have been first filed with the County Clerk in said proceeding the ward's sworn, written request that the guardian's said application be granted and that such particular contribution in the designated amount be authorized by the Court, and unless such request be affirmed by personal appearance of the ward before the Judge of said Court at said hearing. When such an order has been entered and filed with the County Clerk, the guardian shall be entitled to make such contribution, but shall not be entitled to any commission or compensation by reason thereof or in connection therewith.

Sec. 2. Upon application of the guardian filed with the County Clerk at any time within one (1) year from the effective date of this Act, and after hearing held in accordance with this Act, the Court may approve and confirm any contribution which may have been made by the guardian of the ward's estate at any time subsequent to January 1, 1947, and prior to the effective date of this Act, upon a satisfactory showing to the Court that the amount of the net income of the ward's estate for the calendar year during which such contribution was made was such, and all the circumstances were such, that it would have been proper for the Court in a proceeding conformable to this Act to have authorized such contribution if this Act had been in force at the time such contribution was made; provided, however, that if at the time of such hearing the ward be fifteen (15) years or more of age and be of sound mind, no order approving or confirming such a contribution shall be entered unless there shall have been first filed with the County Clerk in said proceeding the ward's sworn, written request that the action of the guardian in making such particular contribution be approved and con-

firmed by the Court, and unless such request be affirmed by personal appearance of the ward before the Judge of said Court at said hearing.

Sec. 3. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end each and all of the provisions of this Act are declared to be severable. Acts 1949, 51st Leg., p. 842, ch. 458.

Effective 90 days after July 6, 1949, date of adjournment.

## TITLE 70—HEADS OF DEPARTMENTS

### CHAPTER FOUR—B—INTERSTATE COOPERATION [NEW]

#### Art. 4413b—1. Commission established; composition; functions; Governor's Committee

##### Establishment and membership of Commission

Sec. 2. There is hereby established the Texas Commission on Interstate Cooperation. This Commission shall be composed of eighteen (18) regular members, namely:

The Governor, the Lieutenant Governor and the Speaker of the House of Representatives;

The five (5) members of the Senate Committee on Interstate Cooperation;

The five (5) members of the House Committee on Interstate Cooperation;

The five (5) members of the Governor's Committee on Interstate Cooperation.

The Governor shall serve as Chairman of the Commission and the Lieutenant Governor and the Speaker of the House shall serve as First Vice-Chairman and Second Vice-Chairman respectively.

The service of all members shall be ex-officio and in addition to the other duties prescribed by law for their offices. As amended Acts 1949, 51st Leg., p. 1106, ch. 565, § 1.

##### Intergovernmental problems; personnel; expenditures

Sec. 4a. In addition to its other duties and functions, the Commission is authorized to study intergovernmental problems and make recommendations with respect thereto and to cooperate with other Texas agencies and the agencies of other States concerned with such problems.

The Commission shall employ necessary personnel, execute necessary contracts, pay for actual travel expenses, printing, supplies and other necessary expenses in accomplishing the above purposes. It is expressly provided that the Governor or any other State Officer or Agency may allocate to the use of said Texas Commission on Interstate Cooperation any portion of any legislative appropriation which, by the terms thereof, may be expended for the accomplishment of any one (1) or more of the purposes set forth in Chapter 569, Acts of the Regular Session of the Forty-seventh Legislature, being Article 4413b—1, Vernon's Annotated Statutes. Added Acts 1949, 51st Leg., p. 1106, ch. 565, § 2.

Acts 1949, 51st Leg., ch. 565, effective July 3, 1941.

### CHAPTER FIVE—DEPARTMENT OF PUBLIC SAFETY

Art.

4413(29a). Plant and buildings for department.

#### Art. 4413(29a). Plant and buildings for department

Section 1. The Texas Department of Public Safety is authorized and fully empowered to construct a physical plant consisting of appropriate buildings, structures and equipment, upon the land hereinafter described. Such plant shall be under the control and management of

the Texas Department of Public Safety for the use and benefit of the State in the discharge of the official duties of said Department.

Sec. 2. The tract of land now owned by the State of Texas and upon which such building or buildings shall be erected is described as follows, to-wit: 84-12/100 acres situated about one mile North of the Austin State Hospital and being what is known as the old Linzing home tract, being more particularly described as follows: 84-12/100 acres of land in Travis County, Texas, about one mile North of the City of Austin, Texas, and a part of the James P. Wallace League Survey No. 57, and by metes and bounds described as follows: Beginning at a stake in the West line of said league 1502 varas from its S. W. corner. Thence S. 60' E. 533½ varas crossing Waller Creek to a stone set in its East Bank. Thence N. 31' 10" E. crossing said creek at 12-240 & 401 varas, at 605 varas a stone on West bank of same. Thence S. 59-¾' E. 160 varas to a stone for corner. Thence parallel with a line of Bois D'Arc Ledge 211½ varas to a stone for corner. Thence N. 60' W. crossing a tank about 50 varas wide, 706-7/8 to a stake on the West line of said League. Thence with said West line S. 30° W. 816 varas to the place of beginning.

There is, however, excepted from this Act, all that lot, tract or parcel of land consisting of 25.69 acres conveyed to the Austin Independent School District by House Bill No. 606, Acts of the 51st Texas Legislature,<sup>1</sup> said 25.69 acres being a part of the 84.12 acres described by metes and bounds herein.

<sup>1</sup> Laws 1949, p. 718, ch. 381.

Sec. 3. The Texas Department of Public Safety may employ architects to prepare plans, specifications, drafts, and such other architectural aids as may be necessary and to supervise the construction and equipping of such building or buildings; and may also expend such other sums as are necessarily incidental to such construction and equipping. The contracts for the construction and equipping of any such building shall be let on competitive bids to the lowest and best bidder after reasonable advertisement; the Department may reject any and all bids.

Sec. 4. For the purpose of carrying out the provisions of this Act there is hereby appropriated to the Texas Department of Public Safety all funds remaining in the Operator and Chauffeurs License Fund (created by Section 15 of Article III of House Bill No. 20, as amended), on August 31, 1949, August 31, 1950 and August 31, 1951.

All disbursements hereunder shall be by warrant issued by the Comptroller upon vouchers drawn by the Chairman of the Department of Public Safety and approved by one other member of the Commission or the Director, and such voucher shall be accompanied by itemized sworn statements of the expenditures for which they are issued.

Sec. 5. All laws and parts of laws in conflict herewith are hereby suspended to the extent of such conflict and for the periods of time necessary to give effect to this Act. Acts 1949, 51st Leg., p. 882, ch. 475.

Effective July 6, 1949, 90 days after date of adjournment.

TITLE 71—HEALTH—PUBLIC

<b>Chap.</b>		<b>Art.</b>
16. Basic Sciences [New]	- - - - -	4590c
17. Naturopathy [New]	- - - - -	4590d

CHAPTER ONE—HEALTH BOARDS AND LAWS

- Art.**  
 4445a. Prenatal examination for syphilis [New].  
 4447a. Coordinated health program [New].

**Art. 4445. Venereal diseases**

**Examinations and quarantine of persons convicted of prostitution or vagrancy**

Sec. 3. Upon final conviction for the offense of prostitution or vagrancy all duly authorized health officers of this State are hereby authorized to make clinical examination of such convicted persons to determine if such person is infected with Venereal Disease; if such examination discloses that such person examined is so infected, then said health officer may quarantine such infected person in a Venereal Disease Clinic or other suitable place until such person is free from infection. As amended Acts 1949, 51st Leg., p. 1066, ch. 550, § 1.

**Measures for protection; notice to infected or suspected persons; quarantine; detention**

**Sec. 4.**

1. All duly authorized health officers of this State are authorized to notify any person who is known to be infected with a Venereal Disease, or who is reasonably suspected of same, to place himself under the medical care of a reputable licensed physician, hospital or clinic for treatment or examination until such physician, hospital or clinic shall furnish such health officer with a certificate that such person examined or treated is free from such Venereal Disease infection. The certificate shall state that the person examined has been given an actual and thorough examination, including a standard serologic test for syphilis and gonorrhoea, provided that the test for gonorrhoea shall be that type of test as approved by the State Department of Health. Such certificate shall also contain the report of the test.

Any person so directed as herein provided who fails to follow such directions after being notified by such health officer, may be quarantined by such health officer in a Venereal Disease Clinic, or any other suitable place for examination and if found to be infected with Venereal Disease, then such infected person may be quarantined for treatment of such disease until such person is free from such infection. As amended Acts 1949, 51st Leg., p. 1066, ch. 550, § 2.

Emergency. Effective June 24, 1949. repealed all conflicting laws and parts of laws.  
 Section 3 of the amendatory Act of 1949

**Art. 4445a. Prenatal examinations for syphilis**

**Duties of attending physician**

Section 1. Every physician or other person permitted by law to attend a pregnant woman during gestation shall, in the case of each woman so attended, take or cause to be taken a sample of the blood of such women at the time of the first examination and visit, and submit

such sample to an approved laboratory for a standard serologic test for syphilis. Reports of each such case shall be retained by the physician or person so in attendance for a period of nine (9) months, and such reports shall be delivered to any successor in any such case, who shall thereupon be presumed to have complied with the provisions of this Section.

**Standard serologic tests defined; execution**

Sec. 2. For the purpose of this Act, "standard serologic test" shall mean all such tests or procedures as may be approved by the State Board of Health. Such tests shall be executed for any physician without charge by the State, county, and city laboratories. All such laboratories shall meet standard of proficiency and the approval of the State Board of Health. Private laboratories complying with the provisions herewith may also execute the tests called for by this Act. The State Health Officer shall immediately forward to all County Clerks the names of approved laboratories and, thereafter, those added, withdrawn, or reinstated.

**Statement on report of birth**

Sec. 3. Every physician or other person required to report births or still-births shall state on each certificate used whether a blood test for syphilis was made during such pregnancy.

**Exemption of persons relying on spiritual means**

Sec. 4. None of the provisions of this Act shall apply to any person who, as an exercise of religious freedom, administers to or treats the sick or suffering by spiritual means or prayer, nor to any person, who, because of her religious belief in good faith selects and depends upon such spiritual means or prayer for the treatment or cure of disease.

**Existing laws and regulations**

Sec. 5. Nothing in this Act shall impair or affect the existing laws or rules or regulations made by authority of law, relative to the reporting of cases of venereal diseases discovered by physicians in the course of their practice.

**Saving Clause.**

Sec. 6. 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 Section, or parts of Sections of this Act.

**Penalty.**

Sec. 7. Any physician or other person legally permitted to engage in attendance upon a pregnant woman during the period of pregnancy or at delivery who shall violate any provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than Two Hundred Dollars (\$200) or more than Five Hundred Dollars (\$500). Acts 1949, 51st Leg., p. 1062, ch. 548.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 4447a. Coordinated health program**

The Commissioners Court of any one or more counties and the municipal authorities of any one or more cities, towns, school boards and school districts, and any other governmental entity may cooperate in the establishment of a coordinated health program and by mutual agreement



may provide for the payment of costs, including the salaries of persons employed, materials used, and the provision of suitable office quarters, health and clinic centers, health services and facilities therefor, and for all maintenance purposes. Acts 1949, 51st Leg., p. 107, ch. 63, § 1.

Emergency. Effective March 31, 1949.

**Title of Act:**

An Act authorizing the Commissioners Court of any county or counties and the municipal authorities of any city or cities, towns, school boards and school districts, and any other governmental entity to co-

operate in the establishment of a coordinated health program and by mutual agreement to provide for the payment of all costs incident thereto; and declaring an emergency. Acts 1949, 51st Leg., p. 107, ch. 63.

## CHAPTER 3A—BEDDING

### Art. 4476a. Bedding—Manufacture, repair or renovating

#### Definitions.

Section 1. (a) The term "bedding," as used in this Act shall mean mattresses, mattress pads, mattress protectors, pillows, bolsters, feather beds, quilts, comfortables, sofa beds, studio couches, box springs and other filled bedding of any description.

(b) The term "department," when used in this Act, shall mean the Texas State Department of Health.

(c) The term "person," as used in this Act, shall include persons, partnerships, companies, corporations and associations.

(d) The term "renovate," as used in this Act, shall mean to restore to former condition or to place in good state of repair.

(e) The term "materials" as used in this Act, shall mean all articles, materials or portions thereof, used as filling in the manufacture, repair or renovation of bedding.

(f) The term "new," as used in this Act, shall mean any article or material which has not been previously used for any purpose.

(g) The term "second-hand," as used in this Act, shall mean any article or material or portion thereof, of which former use has been made in any manner whatsoever.

(h) Wherever in this Act the singular is used, the plural shall be included; and where the masculine gender is used, the feminine and neuter shall be included. As amended Acts 1949, 51st Leg., p. 918, ch. 497, § 1.

#### Labeling of Bedding Required.

Sec. 2. (a) No person shall manufacture, repair, renovate or sell, or have in his possession with intent to sell, any article of bedding, unless there is securely attached, where clearly visible, a substantial white cloth tag as provided in this Act. All tags required by this Section shall be attached at the factory.

(b) Bedding manufactured in whole from all new material shall have attached a tag not less than six (6) square inches in size upon which shall be plainly stamped or printed, in black ink, in the English language, the statement 'All New Material' in lettering not less than one-eighth ( $\frac{1}{8}$ ) inch in height; the kind and grade of each material used in filling with approximate percentages when mixed; and the manufacturer's permit number, assigned by the Department.

(c) Bedding manufactured in whole or in part from secondhand material shall have securely attached a tag not less than thirty-two (32) square inches in size upon which shall be plainly printed in red ink, in the English language, the statement "Secondhand Material" in lettering

not less than one-half ( $\frac{1}{2}$ ) inch in height and the manufacturer's permit number, assigned by the Department. The provisions of this Paragraph (c) of Section 2 are not intended to apply to bedding re-worked, repaired or renovated for the owner for his own use.

(d) Bedding renovated, re-worked or repaired for the owner for his own use from material which is in whole or in part secondhand shall have attached a tag not less than six (6) square inches in size, upon which shall be plainly printed in black ink, in the English language, the statement "Not for Sale, Owner's Own Material which is Secondhand Material" in lettering not less than one-eighth ( $\frac{1}{8}$ ) inch in height; the name and address of the owner; and the manufacturer's permit number assigned by the Department.

(e) All tags required by this Section, when attached to mattresses, shall be securely sewn to the mattresses on all four (4) sides of the tags.

(f) The terms used on the tag to describe materials used in filling shall be restricted to those defined in the regulations of the Department, and no trade or substitute terms shall be used.

(g) It shall be unlawful to make any false or misleading statements on the tag required by this Section. It shall be unlawful for any person to remove, deface, alter or cause to be removed, defaced or altered, any tag or statement contained thereon for the purpose of defeating any of the provisions of this Act. The placing of registration stamps required in Section 7, of this Act over any lettering on the tag, shall be construed to be defacement of the tag. As amended Acts 1949, 51st Leg., p. 918, ch. 497, § 2.

#### **Germicidal Treatment of Bedding and Materials.**

Sec. 4. (a) No person shall sell, offer for sale or include in a sale any article of secondhand bedding or any article of bedding manufactured in whole or in part from secondhand material, except sofa beds and studio couches, unless such bedding has been germicidally treated and cleaned, by a method approved by the Department. Upholstered sofa beds and studio couches shall be germicidally treated and cleaned only when required by the Rules and Regulations of the Department.

(b) No person shall use in the manufacture, repair and renovation of bedding any material which has been used by a person with an infectious or contagious disease, or which is filthy, oily or harbors loathsome insects or pathogenic bacteria, unless such material is cleaned and germicidally treated by a process or treatment approved by the Department.

(c) No person shall sell, or offer for sale or include in a sale any material or bedding requiring germicidal treatment by this Act unless there is securely attached, by a method approved by the Department, by the person applying the germicidal treatment, a substantial white cloth tag not less than twelve (12) square inches in size upon which shall be plainly printed, in black ink, in the English language, a statement showing that the article or material has been germicidally treated by a method approved by the State Health Department, the method of germicidal treatment applied, the lot number and the tag number of the article germicidally treated, the date germicidally treated, the name and address of the person for whom germicidally treated, and the permit number of the person applying the germicidal treatment. As amended Acts 1949, 51st Leg., p. 918, ch. 497, § 3.

#### **Enforcement of Act.**

Sec. 5. (a) The Department is hereby charged with the enforcement of this Act, for the protection of the public health and the public welfare. It is further empowered, and its duty shall be to make, amend, alter or

repeal general rules and regulations of procedure for carrying into effect all the provisions of this Act, and to prescribe means, methods, and practices to make effective such provisions.

(b) No person shall interfere, obstruct, or hinder an authorized representative of the Department in the performance of his duty as set forth in the provisions of this Act.

(c) The Department, through its authorized representative, shall have the authority to enter any place or establishment where bedding is manufactured, repaired, renovated, stored, sold, offered for sale, or where materials are prepared for use in bedding, or where germicidal treatment of bedding is performed, for the purpose of ascertaining whether the requirements of this Act and the regulations of the Department have been met.

(d) The Department, through its authorized representative, is empowered to take samples of materials for inspection and analysis, and to hold for evidence, at a trial, for the violation of this Act any articles of bedding or materials manufactured, repaired, renovated, sold or offered for sale, in violation of this Act.

(e) The Department, through its authorized representative, shall have authority to place "Off-Sale" any article of bedding or material which is offered for sale, or which could be offered for sale, in violation of this Act. When articles of bedding or materials are removed from sale, they shall be so tagged; and such tags shall not be removed except by an authorized representative of the Department, or as the Department may direct, after satisfactory proof of compliance with all requirements of this Act and of the Regulations of the Department and after a "Release for Sale" has been issued by the Department through its authorized representative. As amended Acts 1949, 51st Leg., p. 918, ch. 497, § 4.

#### Penalties.

Sec. 9. Every person who violates any of the provisions of this Act and the rules and regulations established thereunder, is guilty of a misdemeanor and punishable for each offense by a fine of not less than Fifty Dollars (\$50) and not more than Two Hundred Dollars (\$200). As amended Acts 1949, 51st Leg., p. 918, ch. 497, § 5.

Emergency. Effective June 29, 1949.

Section 11a, added by Acts 1943, 48th Leg., p. 273, ch. 172, § 1, providing that this article did not apply to bedding sold under contract to United States for war purposes, provided that the act should

be effective until cessation of hostilities of World War II. By Proclamation No. 2714, the President of the United States proclaimed the cessation of hostilities effective twelve o'clock noon, Dec. 31, 1946.

## CHAPTER FOUR—SANITARY CODE

### Art. 4477. Sanitary code

**Rule 35a. State health officer and registrar of vital statistics.** The State Health Officer shall have general supervision over the central Bureau of Vital Statistics, and shall appoint the director of the Bureau of Vital Statistics, who shall be a competent vital statistician, and who shall be the State Registrar of Vital Statistics. As amended Acts 1949, 51st Leg., p. 755, ch. 405, § 1.

Emergency. Effective June 14, 1949.

**Rule 54a. Copies of records.** The State Registrar shall, upon request, supply any properly qualified applicant a certified copy of the record, or any part thereof, of any birth or death registered under the provisions of this Act, for the making and certification of which he shall be entitled to a fee of fifty cents (50¢), to be paid by the applicant; provided, that such

certified copies shall be issued in only such form as approved by the State Department of Health. And any such copy of the record of a birth or death, when properly certified by the State Registrar, shall be prima-facie evidence in all courts and places of the facts therein stated. For any search of the files and records when no certified copy is made, the State Registrar shall be entitled to a fee of fifty cents (50¢) for each hour or fractional part of an hour of time of search, said fee to be paid by the applicant. And the State Registrar shall keep a true and correct account of all fees by him received under these provisions, and turn the same over to the State Treasurer at the close of each month, and all such fees shall be kept by the State Treasurer in a special and separate fund, to be known as the "Vital Statistics Fund," and the amounts so deposited in this Fund may be used for defraying expenses incurred in the enforcement and operation of this Act; and provided further, that the State Registrar shall, upon request of any parent or guardian, supply, without fee, a certificate limited to a statement as to the date of birth of any child when the same shall be necessary for admission to school, or for the purpose of securing employment; and provided further, that the national agency in charge of the collection of vital statistics may obtain, without expense to the State, transcripts or certified copies of births and deaths without payment of the fees herein prescribed; and provided further, that the State Registrar is hereby authorized to enter into an agreement with the national agency in charge of the collection of vital statistics to act as special agent for that agency in accepting the use of the franking privilege and blanks furnished by that agency and is authorized to act as disbursing agent in order to have transcribed for that agency copies of the birth and death certificates filed with the State Bureau of Vital Statistics; and provided that the State Registrar shall issue free of cost to any veteran, his widow, orphan or other dependents a photostatic copy of any record not otherwise prohibited by law when such a record is to be used in the settlement of a claim against the Government; and provided that the State Registrar may issue, upon court order, without fee, a certified copy of the birth certificate in cases relating to child labor and the public schools. As amended Acts 1949, 51st Leg., p. 777, ch. 417, § 1.

Emergency. Effective June 14, 1949.

#### CHAPTER FOUR A—SANITATION AND HEALTH PROTECTION [NEW]

Art.

4477—2. Mosquito Control Districts.

##### Art. 4477—2. Mosquito Control Districts

Counties on Gulf of Mexico; election on establishment

Section 1. In all counties of this State which border on the Gulf of Mexico, the Commissioners Court may call an election within sixty (60) days after the affective date of this Act, and at subsequent elections when called by the County Judge upon his being petitioned by two hundred (200) qualified voters to call such election to determine if the qualified voters of such county desire the establishment of a Mosquito Control District to embrace all the territory within said county, for the purpose of eradicating mosquitoes in said area. The form of the ballot shall be as follows:

FOR the establishment of a Mosquito Control District in \_\_\_\_\_  
County.

AGAINST the establishment of a Mosquito Control District in \_\_\_\_\_  
County.

**Election on tax levy**

Sec. 2. The Commissioners Court in each county governed by the provisions of this Act may call an election within sixty (60) days after the effective date of this Act and at subsequent elections when called by the County Judge upon his being petitioned by two hundred (200) qualified voters to call such election to determine if the qualified property taxpaying voters of said county desire a levy of a tax not to exceed five cents (5¢) on each one hundred dollar tax valuation to finance the program provided in this Act. The form of the ballot shall be as follows:

FOR the levy of a tax of \_\_\_\_\_ cents on each one hundred dollar tax valuation to finance the Mosquito Control District within \_\_\_\_\_ County.

AGAINST the levy of a tax of \_\_\_\_\_ cents on each one hundred dollar tax valuation to finance the Mosquito Control District within \_\_\_\_\_ County.

**Combining elections**

Sec. 3. The elections provided in Section 1 and Section 2 shall be combined in one election; provided, however, that only qualified property taxpaying voters shall be authorized to vote to create such district and on the question of a tax levy as provided in Section 2.

**Levy and collection of tax**

Sec. 4. If the elections provided in Section 1 and Section 2 of this Act are in favor of the establishment of a Mosquito Control District and the levy of a tax not to exceed five cents (5¢) on each one hundred dollar tax valuation, the Commissioners Court is authorized to levy a tax not to exceed the amount fixed by the election; provided, however, that the Commissioners Court is authorized to lower the tax to any designated sum it may determine, should the approximate revenue be in excess of the needed revenue to carry out the provisions of this Act. The taxes so levied shall be collected by the County Tax Assessor and Collector and shall be deposited in a separate fund and be used for the purposes of carrying out the provisions of this Act and for no other purpose.

**Advisory Commission**

Sec. 5. There shall be appointed by the Commissioners Court in each county in which a Mosquito Control District is created, an Advisory Commission composed of five (5) members who shall be qualified property taxpaying voters of the county. Each Commissioner of the Commissioners Court and the County Judge shall appoint one (1) member of the Advisory Commission. Members of the Commission shall serve without compensation. The Advisory Commission shall make recommendations to the Commissioners Court as it deems are necessary to carry out the provisions of this Act and shall perform such other duties as the Commissioners Court may determine. Each member of the Commission shall take an oath of office prescribed by the Commissioners Court. The Commissioners Court shall have the power to remove any member of the Advisory Commission at any time it deems necessary.

**Mosquito Control Engineer**

Sec. 6. The Commissioners Court in each county which has established a Mosquito Control District is hereby authorized to appoint a Mosquito Control Engineer who shall be well qualified in the field of mosquito control and who shall serve at a salary to be determined by the Commissioners Court in such county. The powers and duties of

the Mosquito Control Engineer shall be under the supervision of the Commissioners Court. The Engineer shall make recommendations to the Commissioners Court as to the number of assistants and employees as may be needed, and the Commissioners Court shall appoint such assistants and employees as it deems necessary for mosquito eradication in said District. The Engineer shall also make biannual reports to the Commissioners Court or as many reports as requested by the Court relative to the work of mosquito eradication, and of the expenses needed for the ensuing year. The first report shall be made not later than June 30th subsequent to the establishment of the Mosquito Control District, and the second report shall be made not later than December 31st following the first report.

#### Election on dissolution of district

Sec. 7. The Commissioners Courts in those counties which have established a Mosquito Control District under the provisions of this Act shall call an election to dissolve said Mosquito Control District upon a petition of at least ten per cent (10%) of the qualified voters of the county as determined by the number of votes cast for Governor of the State of Texas in the last preceding general election. Only the property taxpaying voters of the county, however, shall be authorized to vote in an election to dissolve the Mosquito Control District.

#### Partial invalidity

Sec. 8. If any section, subsection, paragraph, sentence, phrase or word of this Act shall be held invalid, such holding shall not affect the remaining portions of this Act and it is hereby declared that such remaining portions would have been included in this Act though the invalid portion had been omitted. Acts 1949, 51st Leg., p. 82, ch. 46.

Emergency. Effective March 15, 1949.

#### Title of Act:

An Act providing for the creation, regulation and financing of Mosquito Control Dis-

tricts in certain counties; providing that this Act shall be severable; and declaring an emergency. Acts 1949, 51st Leg., p. 82, ch. 46.

## CHAPTER FIVE—COUNTY HOSPITAL

#### Art.

4494k. Scale or lease in counties with population of 69080-69100 [New].

4494l. Lease of county hospital by any county [New].

4494m. Sale of county hospital in counties of 22,000 to 22,800 [New].

#### Art. 4494h. Lease of hospitals in counties of 5,000 to 10,390

Any county in this State having a population of not less than five thousand (5,000) and not more than ten thousand, three hundred and ninety (10,390) inhabitants according to the last preceding Federal Census, shall have authority to lease any county hospital belonging to said county to be operated by the lessee of same under such terms and conditions as may be satisfactory to the Commissioners Court of said county and the lessee. The action of the Commissioners Court in leasing such hospital shall be evidenced by order of the Commissioners Court, which order shall be recorded in the minutes of said Court. As amended Acts 1949, 51st Leg., p. 224, ch. 124, § 1.

Emergency. Effective May 4, 1949.

#### Title of Act:

An Act authorizing the Commissioners Court in any county having a population of not less than ten thousand, three hundred and eighty (10,380) and not more than

ten thousand, three hundred and ninety (10,390) inhabitants, according to the last preceding Federal Census, to lease any county hospital belonging to said county, and providing for the terms for said lease; and declaring an emergency. Acts 1941, 47th Leg., p. 142, ch. 107.

**Art. 4494k. Sale or lease in counties with population of 69080-69100**

Section 1. Any county in this State having a population of not less than sixty-nine thousand and eighty (69,080) and not more than sixty-nine thousand, one hundred (69,100) inhabitants according to the last preceding Federal Census shall have authority to lease or sell any county hospital belonging to said county to be operated as a county hospital by the lessee or purchaser under such terms and conditions as may be satisfactory to the Commissioners Court of said county and the lessee or purchaser; provided the Commissioners Court of such county shall find and determine by an order entered in the minutes of such Court that it is to the best interest of such county to sell or lease said county hospital. The action of the Commissioners Court in leasing or selling such hospital shall be evidenced by the order of the Commissioners Court showing in full the terms and conditions of the lease or sale of said hospital.

Sec. 2. Provided, however, the sale of such hospital shall not be confirmed by such Commissioners Court unless and until said proposed sale shall be approved by a majority vote in an election to be held in such county for the purpose of determining the will of property taxpaying voters living in the county in reference to such subject. The Commissioners Court of such county upon its own motion may order such an election or such election shall be ordered by the Commissioners Court of any such county upon petition of not less than ten per cent (10%) of such voters and shall be otherwise held under and governed by the election provision of Article 4478, Revised Civil Statutes, 1925, of the State of Texas. Acts 1949, 51st Leg., p. 141, ch. 85.

Emergency. Effective April 26, 1949.

**Art. 4494l. Lease of county hospital by any county****Authority to lease**

Section 1. Any county in this State having a county hospital which is operated by said county, may, and such county is hereby authorized to lease such hospital, provided the Commissioners Court of said county shall find and determine by an order entered in the minutes of said Court that it is to the best interest of said county to lease such hospital. The proposed lease of such county hospital shall not be completed until the Commissioners Court of such county shall have complied with the provisions of this Act.

**Notice and hearing**

Sec. 2. When the Commissioners Court of any such county owning and operating its hospital shall determine and find that it is to the best interest of such county that such hospital be leased, it shall be the duty of the Court to fix a time and place at which such question will be heard and considered by it, which date shall be not less than fifteen (15) days nor more than thirty (30) days from the date of the order. The county clerk shall forthwith issue a notice of such time and place of hearing, which notice shall inform all qualified electors of said county and all other persons who may be interested in the question of the leasing of such county hospital of the time and place of the hearing and of their right to appear at such hearing and contend for or protest the proposed leasing of the county hospital. The county clerk shall cause such notice to be published in such county once a week for two (2) consecutive weeks prior to the time set for hearing and considering such question by the Court, the date of the first publication to be at least fourteen (14) days prior to the date fixed for conducting such hearing. If there is no newspaper published in such county, notice of such hearing shall be given by

posting a notice thereof at the county courthouse door for fourteen (14) days prior to the date fixed for such hearing and determination.

**Petition for referendum; conduct of hearing; adjudication**

Sec. 3. If, by the time fixed for such hearing and consideration by the Court, as many as ten per cent (10%) in number of the qualified voters of said county shall petition the Commissioners Court in writing to submit to a referendum vote the question as to whether or not the county hospital shall be leased or shall be continued under county operation, then such Commissioners Court shall not be authorized to lease such hospital and shall not finally lease the same unless the proposition to lease such county hospital is sustained by a majority of the votes cast at said election. Such election shall be held under and governed by the election provisions of Article 4478, Revised Civil Statutes of 1925, of the State of Texas.

If such petition is not so filed with the county clerk, then the Commissioners Court may proceed with the hearing of all evidence relative to the advisability of leasing such hospital. Any person interested may appear before the Court in person or by attorney and contend for or protest the leasing of such county hospital. Such hearing may be adjourned from day to day and from time to time as the Court may deem necessary. Upon the completion of such hearing the Court may proceed to adjudicate such matter by entering an order determining whether or not such hospital shall be leased. Even though such petition is not filed with the county clerk, the Commissioners Court may at its discretion also submit such question to a vote of the people and may withhold its final determination of such question pending the holding of such election.

**Orders when no petition submitted**

Sec. 4. If no petition is submitted upon the date fixed for such hearing, and the Commissioners Court, after holding said hearing, finds that due notice has been given, no petition has been filed, and that the proposed leasing of such hospital would be for the best interests and benefit of the county, then such Court may make and cause to be entered upon its minutes an order directing that such county hospital shall be leased. Such Court shall thereupon be fully authorized and empowered to lease such county hospital to be operated as a hospital by the lessee of same under such terms and conditions as may be satisfactory to the Commissioners Court and the lessee; provided, however, that no lease contract shall be made for a period of in excess of five (5) years but such contract may contain a provision that the lessee has an option to extend the same for an additional period of five (5) years at rentals and upon conditions to be mutually agreed upon by the lessee and the Commissioners Court at the time of exercising such option. The action of the Commissioners Court in leasing such hospital shall be evidenced by an order duly entered, which order shall contain a complete copy of the lease contract and shall be recorded in the minutes of said Court.

**Partial invalidity**

Sec. 5. If any section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Act shall not be affected thereby, it being the intent of the Legislature in adopting, and of the Governor in approving this Act, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any uncon-



stitutionality or invalidity of any other portion, provision or regulation. Acts 1949, 51st Leg., p. 225, ch. 125.

Emergency. Effective May 4, 1949.

Section 6 repeals all conflicting laws and parts of laws.

#### Art. 4494m. Sale of county hospital in counties of 22,000 to 22,800

Section 1. Any county in this State having a population of not less than twenty-two thousand (22,000) and not more than twenty-two thousand, eight hundred (22,800) inhabitants, according to the last preceding Federal Census, shall have authority to lease or sell any county hospital belonging to said county to be operated as a county hospital by the lessee or purchaser under such terms and conditions as may be satisfactory to the Commissioners Court and/or county hospital board of said county and the lessee or purchaser; provided the Commissioners Court of such county shall find and determine by an order entered in the minutes of such Court that it is to the best interest of such county to sell or lease said county hospital or the county hospital board of such county shall by majority vote lease said hospital. A copy of said lease shall be filed with the Commissioners Court of said county. The action of the Commissioners Court or county hospital board in leasing or selling such hospital shall be evidenced by the order of the Commissioners Court showing in full the terms and conditions of the lease or sale of said hospital.

Sec. 2. Provided, however, the sale of such hospital shall not be confirmed by such Commissioners Court unless and until said proposed sale shall be approved by a majority vote in an election to be held in such county for the purpose of determining the will of property taxpaying voters living in the county in reference to such subject. The Commissioners Court of such county upon its own motion may order such an election or such election shall be ordered by the Commissioners Court of any such county upon petition of not less than ten per cent (10%) of such voters and shall be otherwise held under and governed by the election provision of Article 4478, Revised Civil Statutes, 1925, of the State of Texas. Acts 1949 51st Leg., p. 531, ch. 293.

Emergency. Effective May 28, 1949.

### CHAPTER SIX—MEDICINE

#### Art. 4504. 5742. Construction of this law

Nothing in this Chapter shall be so construed so as to discriminate against any particular school or system of medical practice, nor to affect or limit in any way the application or use of the principles, tenets, or teachings of any church in the ministrations to the sick or suffering by prayer, without the use of any drug or material remedy, provided sanitary and quarantine laws and regulations are complied with; and provided further, that all those so ministering or offering to minister to the sick or suffering by prayer shall refrain from maintaining offices, except for the purpose of exercising the principles, tenets, or teachings of the church of which they are bona fide members. The provisions of this Chapter do not apply to dentists, duly qualified and registered under the laws of this State, who confine their practice strictly to dentistry; nor to duly licensed optometrists, who confine their practice strictly to optometry as defined by Statute; nor to duly licensed

chiropractors, who confine their practice strictly to chiropractic as defined by Statute; nor to nurses who practice nursing only; nor to duly licensed chiropodists, who confine their practice strictly to chiropody as defined by Statute; nor to masseurs in their particular sphere of labor; nor to commissioned or contract surgeons of the United States Army, Navy, or Public Health and Marine Hospital Service, in the performance of their duties, and not engaged in private practice; nor to legally qualified physicians of other states called in consultation, but who have no office in Texas, and appoint no place in this State for seeing, examining or treating patients. This law shall be so construed as to apply to persons other than registered pharmacists of this State not pretending to be physicians who offer for sale on the streets or other public places contraceptives, prophylactics or remedies which they recommend for the cure of disease. As amended Acts 1949, 51st Leg., p. 160, ch. 94, § 21(a).

Emergency. Effective April 27, 1949. arts. 740 and 741, section 21 as this article  
Sections 1-19, 22-24 are published as arts. and art. 4510.  
4512b, section 20 as Vernon's Ann.P.C.,

#### Art. 4510. 5745 Who regarded as practicing medicine

Any person shall be regarded as practicing medicine within the meaning of this law:

(1) Who shall publicly profess to be a physician or surgeon and shall treat, or offer to treat, any disease or disorder, mental or physical, or any physical deformity or injury, by any system or method, or to effect cures thereof; (2) or who shall treat or offer to treat any disease or disorder, mental or physical or any physical deformity or injury by any system or method and to effect cures thereof and charge therefor, directly or indirectly, money or other compensation; provided, however, that the provisions of this Article shall be construed with and in view of Article 740, Penal Code of Texas, and Article 4504, Revised Civil Statutes of Texas as contained in this Act.<sup>1</sup> As amended Acts 1949, 51st Leg., p. 160, ch. 94, § 21(b).

<sup>1</sup> This article and arts. 4504, 4512b, Vernon's Ann.P.C., arts. 740 and 741.

Emergency. Effective April 27, 1949. arts. 740 and 741, section 21 as this article  
Sections 1-19, 22-24 are published as arts. and art. 4504.  
4512b, section 20 as Vernon's Ann.P.C.,

### CHAPTER SIX A—CHIROPRACTORS [NEW]

Art.  
4512b. Practice of chiropractic.

#### Art. 4512b. Practice of chiropractic

##### Acts constituting practice of chiropractic

Section 1. Any person shall be regarded as practicing chiropractic within the meaning of this Act<sup>1</sup> who shall employ objective or subjective means without the use of drugs, surgery, X-ray therapy or radium therapy, for the purpose of ascertaining the alignment of the vertebrae of the human spine, and the practice of adjusting the vertebrae to correct any subluxation or misalignment thereof, and charge therefor, directly or indirectly, money or other compensation; or who shall hold himself out to the public as a chiropractor or shall use either the term "chiropractor," "chiropractic," "doctor of chiropractic," or any derivative of any of the above in connection with his name.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

**Expenses**

Sec. 2. The Texas Board of Chiropractic Examiners hereinafter provided for shall defray all expenses under this Act<sup>1</sup> from fees provided in this Act, and no appropriation shall ever be made from the State Treasury for any expenditures made necessary by this Act; and all fees remaining in the "Chiropractic Examiners Fund" at the end of any fiscal year in excess of Twenty Thousand Dollars (\$20,000) shall be transferred into the General Fund of the State of Texas.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

**Texas Board of Chiropractic Examiners created; personnel and terms**

Sec. 3. (a) A Board to be known as "The Texas Board of Chiropractic Examiners" is hereby created. No member of said Board shall be a member of the faculty or Board of Trustees of any chiropractic school; and all appointments to said Board shall be subject to the confirmation of the Senate. The Texas Board of Chiropractic Examiners, which hereinafter may be referred to as "The Board," shall be composed of nine (9) members whose duty it shall be to carry out the purposes and enforce the provisions of this Act,<sup>1</sup> and the Governor of Texas shall, upon the taking effect of this Act, appoint nine (9) graduate chiropractors to constitute such a Board, who shall have been residents of this State, actually engaged in the practice of chiropractic as defined in this Act, for at least five (5) years immediately preceding the passage of this Act. The Board thus appointed, or a quorum thereof, shall by virtue of such appointment issue licenses to themselves. Five (5) members of the Board shall constitute a quorum. No school shall ever have a majority representation on the Board. No member of said Board shall be a stockholder, or have any financial interest whatsoever in any chiropractic school or college.

(b) The members of the Texas Board of Chiropractic Examiners shall be divided into three (3) classes, one, two and three, and their respective terms of office shall be determined by the Governor at the time of the first appointments hereunder. Three (3) members shall hold their offices for two (2) years, three (3) members four (4) years, and three (3) members six (6) years, respectively, from the time of their appointment and until their successors are duly appointed and qualified; and the members of one (1) of the above classes of said Board shall thereafter be appointed every two (2) years by the Governor to supply vacancies made by provisions of this Act who shall hold office for six (6) years and until their successors are duly appointed and qualified. In case of death or resignation of a member of the Board, the Governor shall appoint another to take his place for the unexpired term only. After the first Board has been appointed, only licensed chiropractors under the laws of the State of Texas, actively engaged in the practice of chiropractic, shall be eligible for appointment on said Board.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

**Oath; officers; meetings; rules, regulations and by-laws;  
bond of secretary-treasurer**

Sec. 4. Each member of the Texas Board of Chiropractic Examiners shall qualify by taking the Constitutional Oath. At the first meeting of said Board after each biennial appointment, the Board shall elect a president, a vice-president and a secretary-treasurer from its members. Regular meetings shall be held to examine applicants and for the transaction of business at least twice a year at such time and place as may be determined by the Board. Due notice of such meetings shall be given by publication in such paper or journal as may be selected by the Board. Special

meetings may be held on a call of three (3) members of the Board. The Board may prescribe rules, regulations and bylaws in harmony with the provisions of this Act<sup>1</sup> for its own proceedings and government for the examination of applicants for license to practice chiropractic. The secretary-treasurer shall make and file a surety bond in favor of the Texas Board of Chiropractic Examiners in the sum of not less than Five Thousand Dollars (\$5,000) conditioned that he will faithfully discharge the duties of his office.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

#### Records

Sec. 5. The Board shall preserve a record of its proceedings in a book kept for that purpose, showing name, age, place, and duration of residence of each applicant, the time spent in the study of chiropractic in respective chiropractic schools, together with such other information as the Board may desire to record. Said register shall also show whether applicants were rejected or licensed and shall be prima-facie evidence of all matters contained therein. The secretary of the Board shall on May 1st of each year transmit an official copy of said register to the Secretary of State for permanent record, a certified copy of which, with hand and seal of the secretary of said Board or the Secretary of State, shall be admitted in evidence in all courts.

#### Registration of certificate

Sec. 6. It shall be unlawful for anyone to practice chiropractic within the limits of this State who has not registered in the district clerk's office of the county in which he may reside and in each and every county in which he may maintain an office or may designate as a place for practicing chiropractic, the certificate evidencing his right to practice chiropractic as issued to him by the Texas Board of Chiropractic Examiners. The holder of every such certificate must have the same recorded upon each change of residence to another county, as well as in each and every county in which he may maintain an office, or in which he may designate a place for practicing chiropractic; and the absence of such a record in any place where such record is hereby required shall be prima-facie evidence of the want of possession of such certificate.

#### Chiropractic register; certificate of non-registration

Sec. 7. Every district clerk shall keep as a permanent record in his office a book of suitable size, to be known as the "Chiropractic Register," and shall record therein all licenses to practice chiropractic issued by the Texas Board of Chiropractic Examiners which shall be presented to him for registration, and all the matter and things required by the preceding Section to be recorded, and shall as required by law, make therein notation of the cancellation of licenses so registered, and of the death and removal from the county of chiropractors whose licenses are so registered. When any District Court shall cancel the license of any person to practice chiropractic, the clerk of said court shall, if said license is registered in his county, note the cancellation of said license upon the Chiropractic Register of said county and shall forthwith certify to the secretary of the Texas Board of Chiropractic Examiners, under the seal of said court, the fact that said license was so cancelled by said court, giving the exact date of said cancellation, and shall tax the fee for making said certificate as part of the costs of the suit to cancel said license. The notation of such cancellation shall consist of writing in large, legible letters across the face of the record of the license cancelled the words "Cancelled by the

District Court of \_\_\_\_\_ County on the day of \_\_\_\_\_, \_\_\_\_\_" (filling in the blanks so as to correctly indicate the name of the county and the date of the cancellation), and such notation shall be dated and signed officially by the clerk. When any chiropractor shall die or remove from the county, it shall be the duty of the district clerk to note the fact of such death or removal upon the record of the license of such chiropractor who has died or removed from the county, in large, legible letters, the date of said notation and the official signature of the clerk. The district clerk shall collect from each chiropractor who presents a license for registration the sum of One Dollar (\$1) at the time such license is presented to him for registration, and that sum shall be full compensation for recording said license and making all notations in the chiropractic register required by law to be so made in reference to the chiropractor named in said license. All matters pertaining to each chiropractor shall be kept and written upon one page of said chiropractic register, and no other entry or registration shall ever be made on said page. It shall be unlawful for any district clerk to make a certified copy of any page or entry in said chiropractic register, or any part thereof, which is not an exact copy of the entire page, or which does not include all notations regarding the cancellation of license, death, or removal of the chiropractor in question, appearing in the office of said clerk. A copy from the chiropractic register pertaining to any person whose license is registered therein, certified to by the district clerk having the custody of such chiropractic register, under the seal of said court, shall be competent evidence in all trial courts. The certificate of a district clerk under the seal of his office, certifying that the person named in said certificate is not registered as a chiropractor in the office of said district clerk, shall also be prima-facie evidence in all trial courts.

#### Registration with board

Sec. 8. It shall be unlawful for any person who shall be licensed for the practice of chiropractic by the Texas Board of Chiropractic Examiners as created by this Act, unless such person be registered as such practitioner with the Texas Board of Chiropractic Examiners on or before the first day of January, A. D. 1950, or thereafter registered in like manner annually as provided by this Act on or before the first day of January of each succeeding year, to practice chiropractic in this State. Each person so licensed and registered shall be deemed to have complied with the requirements and prerequisites of the laws governing the practice of chiropractic in this State. Each person so registered with the Texas Board of Chiropractic Examiners shall pay in connection with each annual registration and for the receipt hereinafter provided for, a fee to be fixed by the Texas Board of Chiropractic Examiners not to exceed Fifteen Dollars (\$15), which fee shall accompany the application of every such person for registration. Such payment shall be made to the Texas Board of Chiropractic Examiners. Every person so registered shall file with said Board a written application for annual registration, setting forth his full name, his age, post-office address, his place of residence, the county or counties in which his certificate entitling him to practice chiropractic has been registered, and the place or places where he is engaged in the practice of chiropractic, as well as the college of chiropractic from which he graduated, and the number and date of his license certificate.

Upon receipt of such application, accompanied by the registration fee, the Texas Board of Chiropractic Examiners, after ascertaining either from the records of the Board or from other sources deemed by it to be reliable, that the applicant is a licensed practitioner of chiropractic in this State, shall issue to the applicant an annual registration receipt cer-

tifying that the applicant has filed such application and has paid the registration fee mentioned for the year in question; provided, that the filing of such application, the payment of the registration fee and the issuance of such receipt shall not entitle the holder thereof to lawfully practice chiropractic within the State of Texas, unless he has in fact been previously licensed as such chiropractor by the Texas Board of Chiropractic Examiners, as prescribed by law, and has recorded his license certificate entitling him to practice, as issued by said Board, in the district clerk's office of the several counties in which the same may be required by law to be recorded, and unless his license to practice chiropractic is in full force and effect; and provided further that, in any prosecution for the unlawful practice of chiropractic as denounced in Section 6 hereof, such receipt showing payment of the annual registration fee required by this Section shall not be treated as evidence that the holder thereof is lawfully entitled to practice chiropractic.

**License to practitioners of other states or territories**

Sec. 9. The Texas Board of Chiropractic Examiners shall upon payment by an applicant of a fee of Fifty Dollars (\$50), grant license to practice chiropractic to licentiates of other states or territories having requirements and practices equal to those established by the laws of this State. Applications for license under the provisions of this Section shall be in writing, and upon a form to be prescribed by the Texas Board of Chiropractic Examiners. Said application shall be accompanied by a license, or a certified copy of license to practice chiropractic, lawfully issued to the applicant, upon examination, by some other state or territory of the United States. Said application shall also be accompanied by an affidavit made by the president or secretary of the Board of Chiropractic Examiners which issued the said license, or by a legally constituted chiropractic registration officer of the state or territory by which the license was granted, and on which the application for chiropractic registration in Texas is based, reciting that the accompanying license has not been cancelled or revoked, and that the statement or qualifications made in the application for chiropractic license in Texas is true and correct. Applicants for license under the provisions of this Section shall subscribe to an oath in writing before an officer authorized by law to administer oaths, which shall be a part of said application, stating that the license under which the applicant practiced chiropractic in the State or territory from which the applicant removed, was at the time of such removal in full force, and not suspended or cancelled. Said application shall also state that the applicant is the identical person to whom the said certificate was issued, and that no proceeding has been instituted against the applicant for the cancellation of said certificate to practice chiropractic in the State or territory by which the same was issued; and that no prosecution is pending against the applicant in any State or Federal Court for any offense which, under the law of Texas is a felony.

**Examination of applicants for license; persons practicing  
or beginning study before date of act**

Sec. 10. All applicants for license to practice chiropractic in this State, not otherwise licensed under the provisions of this law, must successfully pass an examination by the Texas Board of Chiropractic Examiners established by this law. The Board is authorized to adopt and enforce rules of procedure not inconsistent with the statutory requirements. All applicants shall be eligible for examination who are citizens of the United States and present satisfactory evidence to the Board that they are more than twenty-one (21) years of age, of good moral char-

acter, and have at least graduated from a first grade high school or who have such equivalent preliminary education as would permit them to matriculate in The University of Texas, and are graduates of bona fide reputable chiropractic schools (whose entrance requirements and course of instruction are as high as those of the better class of chiropractic schools in the United States); a reputable chiropractic school shall maintain a resident course of instruction equivalent to not less than four (4) terms of eight (8) months each, or a resident course of not less than the number of semester hours required by The University of Texas for the granting of a Bachelor of Arts degree; shall give a course of instruction in the fundamental subjects named in Section 12 of this Act; and shall have the necessary teaching force and facilities for proper instruction in all of said subjects. Applications for examination must be made in writing, verified by affidavit, and filed with the secretary of the Board, on forms prescribed by the Board, accompanied by a fee of Twenty-five Dollars (\$25). All applicants shall be given due notice of the date and place of such examination.

If any applicant, because of failure to pass the required examination, shall be refused a license, he or she, at such time as the Texas Board of Chiropractic Examiners may fix, not exceeding one (1) year, shall be permitted to take a subsequent examination, upon such subjects required in the original examination as the Board may prescribe except that the applicant shall not be required to take a re-examination on subjects in which he has made a grade of seventy-five per cent (75%) or more, provided the applicant shall apply for re-examination within one (1) year upon the payment of such part of Twenty-five Dollars (\$25) as the Board may determine and state. In the event satisfactory grades shall be made in the subjects prescribed and taken on such re-examination, the Board shall grant to the applicant a license to practice chiropractic. The Board shall determine the grade to be given the examinees on the answers turned in on the subjects of complete and partial examination, and its decision thereupon shall be final.

Provided, however, that those who are regularly engaged in the practice of chiropractic in this State on April 18, 1949, and who have completed a resident course and hold diplomas from schools recognized by the Board as being regularly organized and conducted as chiropractic schools at the time of the issuance of such diplomas, shall be licensed under this Act,<sup>1</sup> provided they apply therefor within six (6) months after the effective date of this Act, and provided further that they shall meet the provisions of his Act with reference to citizenship, age and good moral character; and

Provided that those who have begun the study of chiropractic prior to the effective date of this Act in institutions regularly organized and conducted as chiropractic schools shall be licensed under this Act, provided they complete a standard chiropractic resident course of one hundred and twenty (120) semester hours in such school or schools and receive diplomas therefrom; and provided further that they shall meet the provisions of this Act with reference to citizenship, age, and good moral character.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

#### Examiners fund

Sec. 11. The funds realized from the fees collected under this Act<sup>1</sup> shall constitute the "Chiropractic Examiners Fund" and shall be applied to the payment of necessary expenses of the Texas Board of Chiropractic Examiners, including the expenses authorized by said Board in enforcing the provisions of this Act, and to compensate members of the Board for

the time actually spent in discharge of their official duties, in the sum of Ten Dollars (\$10) per day, plus their actual and necessary expenses.

All disbursements from said fund shall be made only upon written approval of the president and secretary-treasurer of the Texas Board of Chiropractic Examiners, and upon warrants drawn by the Comptroller to be paid out of said fund.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

#### Conduct of examinations; subjects

Sec. 12. All examinations for license to practice chiropractic shall be conducted in writing in the English language and in such manner as to be entirely fair and impartial to all applicants. All applicants shall be known to the examiners only by numbers, without names or other method of identification on examination papers by which members of the Board may be able to identify such applicants, or examinees, until after the general averages of the examinees' numbers in the class have been determined, and license granted or refused. Examinations shall be conducted on practical and theoretical chiropractic and in the subjects of anatomy, physiology, symptomatology, pathology and analysis of the human spine, and hygiene and public health. Upon satisfactory examination, conducted as aforesaid under the rules of the Board, which shall consist of an average grade of not less than seventy-five per cent (75%) with not less than sixty per cent (60%) in any one subject, applicants shall be granted license to practice chiropractic. All questions and answers, with the grades attached, authenticated by the signature of the examiner, shall be preserved in the executive office of the Board for one (1) year. All applicants examined at the same time shall be given identical questions. All certificates shall be attested by the seal of the Board, and signed by all members of the Board, or a quorum thereof.

#### Rights of physicians and surgeons

Sec. 13. Nothing in this Act<sup>1</sup> shall limit or affect the rights and powers of physicians and surgeons, duly qualified and registered as such under the laws of this State, to practice medicine as that term may now or hereafter be defined by law.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

#### Grounds for refusing, revoking or suspending license; right to trial in district court

Sec. 14. The Texas Board of Chiropractic Examiners shall have the authority to revoke, cancel, or suspend the license of any person, or refuse to admit persons to its examinations and to issue licenses to practice chiropractic to any person or persons for any of the following reasons:

1. For failure to comply with, or the violation of, any of the provisions of this Act;<sup>1</sup>

2. If it is found that said person or persons do not possess or no longer possesses a good moral character or is in any way guilty of deception or fraud in the practice of chiropractic;

3. The presentation to the Board, or use of any license, certificate, or diploma, which was illegally or fraudulently obtained, or the presentation to the Board of any untrue statement or any document or testimony which was illegally or fraudulently obtained, or when fraud or deceit has been practiced in passing the examination;

4. Conviction of a crime of the grade of a felony, or one which involves moral turpitude, or the procuring or assisting in the procuring of a criminal abortion;



5. Grossly unprofessional or dishonorable conduct of a character likely to deceive or defraud the public; habits of intemperance, or drug addiction, or other habits calculated in the opinion of the Board to endanger the lives of patients;

6. The use of any advertising statement of a character to mislead or deceive the public;

7. Employing directly or indirectly any person or persons whose license to practice chiropractic or any of the healing arts has been canceled, suspended or revoked, or the association in the practice of chiropractic with any person or persons whose license to practice chiropractic or any of the healing arts has been canceled, suspended or revoked, or any person or persons who have been convicted of the unlawful practice of any of the healing arts in any State, territory or district.

Provided, that any person or persons whose license to practice chiropractic has been revoked, canceled or suspended, or any applicant who may be refused admittance to examination before said Board or be refused a license after legal notice and a full and impartial hearing, shall have his right of action to have such issue tried in the District Court of any county in which one of the members of the Board shall reside, or in the county where the applicant resides. All orders of the Board shall be prima-facie valid.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

#### **Powers of district court; duty of district and county attorneys**

Sec. 15. The District Courts of this State shall have the right to revoke, cancel, or suspend the license of any practitioner of chiropractic upon proof of the violation of the law in any respect in regard thereto, or for any cause for which the Texas Board of Chiropractic Examiners shall be authorized to refuse to admit persons to its examination, as provided in Section 14 thereof, and it shall be the duty of the several District and County Attorneys of this State to file and prosecute appropriate judicial proceedings for such revocation, cancellation, or suspension in the name of the State, on request of the Texas Board of Chiropractic Examiners.

#### **Procedure in judicial proceedings**

Sec. 16. All judicial proceedings which shall be instituted by any District or County Attorney under the provisions of the last preceding Section of this Act shall be in writing, shall state the ground thereof, and shall be signed officially by the prosecuting officer instituting the same. Citation thereon shall be issued in the name of the State of Texas in the manner and form as in other cases, and the same shall be served upon the defendant and such defendant shall be required to answer within the time and manner provided by law in civil cases. If the said practitioner of chiropractic shall be found guilty, or shall fail to appear and deny the charge, after being cited as aforesaid, the said court shall, by proper order entered on the minutes, suspend his license for a time, or revoke and cancel it entirely, and shall give proper judgment for costs.

#### **Proceedings by Attorney General**

Sec. 17. Upon the application of the Texas Board of Chiropractic Examiners, or a majority thereof, to the Attorney General setting forth that the County or District Attorney of a county or district has failed to prosecute or proceed against any person violating the terms of this Act,<sup>1</sup> setting forth that application and request have been made of such County or District Attorney and that such request or application has been neglected or refused the Attorney General shall proceed against such

person in the county of residence of the person complained against, either by civil or criminal proceedings.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

#### Injunctions

Sec. 18. The actual practice of chiropractic in violation of the provisions of this Act<sup>1</sup> shall be enjoined at the suit of the State, but such suit for injunction shall not be entertained in advance of the previous final conviction of the party sought to be enjoined of violation of any provision of this Act. In such suits for injunction, it shall not be necessary to show that any person is personally injured by the acts complained of. Any person who may be or about to be so unlawfully practicing chiropractic in this State may be made a party defendant in said suit. The Attorney General, the District Attorney of the district in which the defendant resides, the County Attorney of the county in which the defendant resides, or any of them, shall have the authority, and it shall be their duty, and the duty of each of them, to represent the State in such suits. No injunction, either temporary or permanent, shall be granted by any court, until after a hearing of the complaint is had by a court of competent jurisdiction on its merits. In such suit no injunction or restraining order shall be issued until final trial and final judgment on the merits of the suit. If on the final trial it be shown that the defendant in such suit has been unlawfully practicing chiropractic or is about to practice chiropractic unlawfully, the court shall by judgment perpetually enjoin the defendant from practicing chiropractic in violation of law as complained of in said suit. Disobedience of said injunction shall subject the defendant to penalties, provided by law for the violation of an injunction. The procedure in such cases shall be the same as in any other injunction suit as nearly as may be. The remedy by injunction given hereby shall be in addition to criminal prosecution. Such causes shall be advanced for trial on the docket of the trial court, and shall be advanced and tried in the appellate courts in the same manner and under the same laws and regulations as other suits for injunction.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

#### Punishment for violations

Sec. 19. Whoever violates any provision of this Act<sup>1</sup> shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail for not more than thirty (30) days.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

#### Seal of board

Sec. 22. The seal of the Board created by this Act<sup>1</sup> shall consist of a star of five points with the words, "The State of Texas," and the words, "Texas Board or Chiropractic Examiners," around the margin thereof.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

#### Repeal

Sec. 23. All laws and parts of laws in conflict with the provisions of this Act<sup>1</sup> be and the same are hereby repealed, only to the extent of any conflict.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

**Partial invalidity**

Sec. 24. If any of the provisions of this Act,<sup>1</sup> or any Section or part thereof, shall be held to be unconstitutional or invalid, such unconstitutionality or invalidity shall in no way affect the constitutionality or validity of any other provision, Section or part of this Act, and it is the legislative intent that all of the remaining parts of this Act should remain in full force and effect in spite of any invalidity of any provision, Section or part thereof; and the Legislature would have passed all other provisions, Sections and parts thereof regardless of the invalidity of any other provision, Section or part thereof of this Act. Acts 1949, 51st Leg., p. 160, ch. 94.

<sup>1</sup> This article and arts. 4504, 4510, Vernon's Ann.P.C., arts. 740, 741.

Emergency. Effective April 27, 1949.

Section 20 is published as Vernon's Ann. P.C., arts. 740, 741, section 21 as arts. 4504 and 4510.

Acts 1949, 51st Leg., p. 1182, ch. 596, transfers to the Texas Board of Chiropractic Examiners, the balance in the Chiropractic Examiners fund accumulated under the prior unconstitutional law, arts. 4512a—1 to 4512a—18.

**CHAPTER SEVEN—NURSES**

Art.

4528b. Tuberculosis nurses [New].

**Art. 4526. Re-registration**

On or before the first day of March of each year, the Secretary of the Board shall mail to each nurse registered in this state a blank application for re-registration, addressing the same to the post office address as shown by the records of said Board. Upon receipt of such application blank, which shall contain space for such information as the Board shall deem necessary, he or she shall sign and swear to the accuracy of the same before some officer authorized to administer oaths, after which he or she shall forward such sworn statement and application for renewal of his or her registration certificate to the Secretary of the Board, together with a fee of One (\$1.00) Dollar. Upon receipt of such application and fee, and having verified the accuracy of the same by comparison with the applicant's initial registration statements, the Secretary of the Board shall issue and mail to the applicant a certificate of re-registration which shall render the holder thereof a legally qualified registered nurse for the ensuing year. In case of refusal, notice of such fact shall be given. Certificates of re-registration shall bear the date of April of the year of issue, and shall expire on the last day of March in the year following. Should any registered nurse continue to practice nursing and caring for the sick beyond the time for which he or she is registered or re-registered, he or she shall be deemed to be an illegal practitioner and his or her license may be suspended or revoked by the Board. All nurses already registered in this state at the time of the passage of this law shall make application to the Secretary of the Board for a re-registration blank, upon receipt of which he or she shall, in the manner hereinbefore prescribed, make application for re-registration; failing which, the delinquent may be dealt with as provided in regard to the suspension or revocation of license. As amended Acts 1949, 51st Leg., p. 4, ch. 4, § 1.

Emergency. Effective March 2, 1949.

Section 2 of the amendatory Act of 1949

repealed all conflicting laws and parts of laws.

**Art. 4528a. Employment for public schools and compensation**

Sec. 3. The Commissioners Court shall be empowered to appropriate from any funds of the respective counties the necessary money to cover the salary of such nurses, not to exceed the sum of Two Thousand, Seven Hundred Dollars (\$2,700) to each nurse, and in addition thereto may appropriate additional funds to cover all expenses that may be proper and necessary in the visiting of such schools, and General Public Health Nursing including transportation and other incidental expenses. As amended Acts 1949, 51st Leg., p. 431, ch. 231, § 1.

Emergency. Effective May 20, 1949.

**Art. 4528b. Tuberculosis nurses****Appointment of board of examiners**

Section 1. The Governor shall, with the advice and consent of the Senate, appoint a Board of Tuberculosis Nurses Examiners to consist of three (3) members, and the term of office of those first appointed shall be: one for six (6) years, one for four (4) years, and one for two (2) years. Thereafter, the Governor shall biennially appoint one member of the Board whose term of office shall be six (6) years. Each member of the first Board shall be a tuberculosis nurse of good moral character and a graduate of the Sanatorium School of Nursing located at Sanatorium, Texas. Subsequent appointments may be made of registered tuberculosis nurses.

**Election of officers; assistance in enforcing law**

Sec. 2. The members of the Board shall elect from their number a president and a secretary who shall act as treasurer. Said Board shall assist the various county and district attorneys in the enforcement of the provisions of this Act.

**Bond of secretary-treasurer**

Sec. 3. The secretary-treasurer of the Board shall, within thirty (30) days after election by the Board, execute a bond in the sum of One Thousand (\$1,000.00) Dollars payable to the Governor, conditioned on the faithful performance of the duties of the office, and biennially account for all funds coming into her hands in her official capacity as secretary-treasurer of the Board.

**Eligibility, examination and certification**

Sec. 4. No person shall be certified as a graduate tuberculosis nurse unless such person has had two (2) full years of work and study in the Sanatorium School of Nursing at Sanatorium, Texas, or in some other school of tuberculosis nursing recognized and approved by the Board. Such graduate, upon presenting a certificate of graduation as provided herein to the State Board of Tuberculosis Nurses Examiners shall, upon payment of the fee required herein, be entitled to take examinations prescribed by the Board. Upon making the passing grades prescribed, the applicant shall be entitled to receive from the Board a certificate certifying that the applicant is a graduate tuberculosis nurse entitled to practice as a registered tuberculosis nurse in the State of Texas. Provided, that the practice of registered tuberculosis nurses shall be limited to the nursing of tuberculosis patients.

**Fees; passing grade; character of examination**

Sec. 5. Upon filing an application for examination, each applicant shall pay an examination fee of Ten (\$10.00) Dollars, which fee shall in

no case be returned to the applicant. If the applicant passes the examination, no further fee shall be necessary. Any applicant for registration who fails to pass the examination herein provided for shall have the right after six (6) months and within one year from the first examination to stand a second examination on the subject or subjects failed, without the payment of any additional fee. If more than two examinations are necessary, a fee of Two (\$2.00) Dollars shall be charged for each additional examination. A grade of not less than seventy (70%) per cent shall be required to pass the examination. The examination shall be of such character as to determine the fitness of the applicant to practice professional tuberculosis nursing in this State.

#### **Filing certificate; exemptions from examination**

Sec. 6. Every person receiving a certificate of registration as provided in this Act, shall within thirty (30) days thereafter file the same for record with the County Clerk of the county in which such person resides. No graduate tuberculosis nurse who has satisfactorily completed the specialized course in tuberculosis nursing at the Sanatorium School of Nursing, Sanatorium, Texas, or any other school of tuberculosis nursing approved and recognized by the Board, prior to the effective date of this Act, shall be required to stand any examination under this Act, but shall register with the County Clerk in the county of residence.

#### **Revocation of certificate**

Sec. 7. The Board of Tuberculosis Nurse Examiners may by unanimous vote file a complaint against any registered nurse in the county court where such certificate is recorded, charging gross incompetency, malpractice, dishonesty, intemperance or any other act derogatory to the morals and standing of the profession of nursing. Thereupon the person against whom such complaint is filed shall be cited in writing to appear before said court on a date named in such citation, not less than ninety days from the issuance of said notice, to which citation there shall be attached a certified copy of the complaint so filed. If such court shall decree a revocation of the certificate of such nurse, he or she shall have the right to appeal to the District Court of such county. Such certificate shall upon such appeal remain in full force and effect until the same shall be disposed of by such District Court, the decision of which shall be final. Upon the revocation of any certificate as herein provided, the secretary of said Board shall strike the name of the holder of such certificate from the roll of registered nurses kept by such Board.

#### **Exceptions to application of law**

Sec. 8. This Act shall not be construed to apply to the gratuitous nursing of the sick by friends, nor to any person nursing the sick for hire who does not in any way assume or profess to practice as a graduate certified registered tuberculosis nurse.

#### **Severability of provisions**

Sec. 9. The provisions of this Act shall be severable, and it is hereby declared to be the intention of the Legislature that partial invalidity hereof shall not affect the validity of the remaining portions of this Act. Acts 1950, 51st Leg., 1st C.S., p. 53, ch. 13.

Emergency. Effective March 13, 1950.

**CHAPTER 16—BASIC SCIENCES [NEW]**

Art.  
4590c. Basic science law.

Art. 4590c. Basis science law

**Basic Science Certificate Required**

Section 1. No person shall be permitted to take an examination for a license to practice the healing art or any branch thereof, or be granted any such license, unless he has presented to the Board or officer empowered to issue such a license as the applicant seeks, a certificate of proficiency in anatomy, physiology, chemistry, bacteriology, pathology, and hygiene and public health, hereinafter referred to as the basic sciences, issued by the State Board of Examiners in the Basic Sciences.

**The Healing Art Defined**

Sec. 2. For the purpose of this Act,<sup>1</sup> the healing art includes any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

**Board of Examiners**

Sec. 3. The Governor, within thirty (30) days after this Act<sup>1</sup> takes effect, shall appoint a State Board of Examiners in the Basic Sciences, hereinafter referred to as the Board, consisting of six (6) members. The said Board shall be appointed subject to the consent and confirmation of the Senate. Of the members first appointed, two (2) shall serve for a term of two (2) years, or until their successors shall be appointed and qualified; two (2) shall serve for a term of four (4) years, or until their successors shall be appointed and qualified; and the remaining two (2) members shall serve for a term of six (6) years, or until their successors shall be appointed and qualified. Thereafter at the expiration of the term of each member of the Board first appointed, his successor shall be appointed by the Governor for, and shall serve for, a term of six (6) years, or until his successor shall be appointed and qualified. On the death, resignation or removal of any member, the Governor shall fill the vacancy by appointment for the unexpired portion of the term. Every member shall serve until his successor is appointed and qualified. The members of the Board shall be selected because of their knowledge of the basic sciences named in this Act, and each member shall be a professor, or an assistant or associate professor or an instructor on the faculty of the University of Texas, the Agricultural and Mechanical College of Texas, the Texas Technological College, Baylor University, Southern Methodist University, Texas Christian University, St. Edwards University, Rice Institute, Southwestern University, or any other institution or college located within the State of Texas of equal academic standing and facilities for instruction. Each member shall have resided in the State of Texas not less than one (1) year next preceding his appointment. No member of the Board shall be actively engaged in the practice of the healing art or any branch thereof, nor possess or have in the past possessed a license to practice the healing art or any branch thereof, nor be employed or having in the past been employed by any medical branch of any school or college.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

### Organization, Officers and Compensation of Board

Sec. 4. The Board shall organize as soon as practicable after its appointment. It shall have authority to elect officers, to adopt a seal, and to make such rules and regulations, not inconsistent with the law, as it deems expedient to carry this Act<sup>1</sup> into effect. The Board shall keep a record of its proceedings, which shall be prima-facie evidence of all matters contained therein. Each member of the Board shall take the Constitutional Oath of office.

Each member of the Board shall be paid Ten Dollars (\$10) per day for each day actively engaged in the discharge of his duties, and the time spent in going to and returning from meetings of the Board shall be included in computing such time. In addition to this per diem, each member of the Board shall receive expenses incurred while actually engaged in the performance of the duties of the Board. The Secretary and Treasurer shall each be required to execute a bond in the sum of Ten Thousand Dollars (\$10,000) for the faithful performance of his duties, payable to the State of Texas. The premium of such bonds shall be paid out of fees received. The office of the Board shall be in the State Capitol, and quarters for that office shall be assigned by the State Board of Control in the Capitol building, or some other building occupied by the State Government, where its permanent records shall be kept.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

### Fees Payable by Applicants

Sec. 5. The fee for examination by the Board shall be Fifteen Dollars (\$15). The fee for re-examination within a twelve-month period shall be Ten Dollars (\$10), but the fee for re-examination after the expiration of twelve (12) months shall be the same as the original fee. The fee for the issue of a certificate by authority of reciprocity, on the basis of qualifications as determined by the proper agency of some other State, Territory, or the District of Columbia shall be Twenty-five Dollars (\$25). All fees shall be paid to the Board by the applicant when he files his application. The Board shall pay all money received as fees into the State Treasury, where such money will be placed in a special fund to be known as "The Basic Science Examination Fund." All money so received and placed in such fund shall be used by the Board of Examiners in the Basic Sciences in paying its compensation and defraying its expenses, and in administering, enforcing and carrying out the provisions of the law. The Board may hire such employees as are necessary in carrying out the provisions of this law. The State Treasurer shall pay out of the fund the compensation of and expenses incurred by the Board on warrants based upon vouchers signed by the President and the Secretary of the Board.

### Examination

Sec. 6. The Board shall conduct examinations at such times and places as it deems best, provided, however, that the first examination shall be held within six (6) months from the effective date of this Act,<sup>1</sup> and one examination shall be held during each period of six (6) months thereafter. Every applicant, except as hereinafter provided, shall be examined to determine his knowledge, ability and skill in the basic sciences. The examinations shall be conducted in writing, and in such manner as to be entirely fair and impartial to all individuals and to every school or system of practice. All applicants shall be known to the examiners only by numbers, without names, or other method of identification on examination papers by which members of the Board may be able to identify such

applicants or examinees, until after the general averages of the examinees' numbers in the class have been determined, and license granted or refused. If the applicant receives a credit of seventy-five per cent (75%) or more in each of the basic sciences, he shall be considered as having passed the examination. If the applicant receives less than seventy-five per cent (75%) in one subject and receives seventy-five per cent (75%) or more in each of the remaining subjects, he shall be allowed a re-examination at the examination next ensuing, on application and the payment of the prescribed fee, and he shall be required to be re-examined only in the subject in which he received a rating less than seventy-five per cent (75%). If the applicant receives less than seventy-five per cent (75%) in more than one subject, he shall be entitled to take a second examination after a period of six (6) months has elapsed from the date of the first examination, and he shall then be re-examined in all subjects. If the applicant receives less than seventy-five per cent (75%) in more than one subject on such second examination, he shall not be re-examined unless he presents proof, satisfactory to the Board, of additional study in the basic sciences sufficient to justify re-examination, and shall then be re-examined in all subjects. Provided, however, it is the intent of this Act that the examinations given shall be similar to the examinations given in the subjects named in this Act at the colleges or universities named above.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

#### Requirements for Certificate

Sec. 7. No certificate shall be issued by the Board unless the person applying for it submits evidence, satisfactory to the Board, (1) that he is a citizen of the United States; (2) that he is not less than nineteen (19) years of age; (3) that he is a person of good moral character; (4) that he was graduated by a high school accredited by the State Committee on Classified and Accredited Schools, or a school of equal grade, or that he possesses educational qualifications equivalent to those required for graduation by such an accredited high school; (5) he must have completed sixty (60) semester hours of college courses which would be acceptable at the time of completing same at The University of Texas on a Bachelor of Arts Degree or a Bachelor of Science Degree; and (6) that he has a comprehensive knowledge of the basic sciences as shown by his passing the examination given by the Board as by this Act<sup>1</sup> required. This shall not be construed to prevent the issue of certificates under the provisions of Section 8 of this Act.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

#### Reciprocity.

"Sec. 8. The Board shall waive the examination required by Section 7, when proof satisfactory to the Board is submitted, showing (1) that the applicant has passed in another State, Territory, or District of Columbia, an examination in the basic sciences before a board of examiners; (2) that the requirements of that State, Territory, or District of Columbia are not less than those required by this Act<sup>1</sup> as a condition precedent to the issue of a certificate; (3) that the board of examiners in that State, Territory, or District of Columbia grants like exemption from examination in the basic sciences to persons holding certificates from the State Board of Examiners in the Basic Sciences in Texas; (4) that the applicant show satisfactory proof that he is a citizen of the United States; and (5) that the applicant is a person of good moral character and the holder of an uncanceled basic science certificate from another



State, Territory, or the District of Columbia. As amended Acts 1949, 51st Leg., p. 522, ch. 287, § 1.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

Effective 90 days after July 6, 1949, date of adjournment.

### Appeal

Sec. 9. Any person aggrieved by any action of the Board may appeal to a district Court of any county in which the aggrieved person resides. Such appeals shall be taken by serving the Secretary of the Board with citation duly issued by the clerk of the district Court, and the same shall be served in the manner provided by law in the service of citations in suits of a civil nature, and at the expiration of twenty (20) days after the service of said citation, the said cause shall thereupon stand for trial. Such notice of appeal, or citation shall state the action from which the appeal is taken, and, if the appeal is from an order of the Board, stating such order or the part thereof from which the appeal is taken, and filing with the district clerk a bond in the sum of Five Hundred Dollars (\$500), conditioned for the payment of all costs of the appeal. All members of the Board who shall incur any expense on account of the trial of any proceeding in district Court incident to appeal from actions of the Board, shall receive the necessary and proper expenses, including traveling expenses incident thereto, same to be paid out of the funds of the Board in the same manner and by the same proceeding as other expenditures are authorized from said fund.

### Certificates and Licenses Void

Sec. 10. Any basic science certificate or any license to practice the healing art, or any branch thereof, issued contrary to this Act,<sup>1</sup> shall be void. Any license or certificate of authority to practice the healing arts, or any branch thereof, based upon a void basic science certificate shall be void and shall be so adjudged by any District Court in which the trial of a suit to adjudge the same void or cancel or revoke a license to practice the healing arts may be had. The procedure for such revocation or cancellation shall be in accordance with the provisions of the Act under which such license was issued authorizing the cancellation or revocation of licenses for the practice of the healing art generally. Any certificate of proficiency issued by the Board shall become void upon the revocation of the license of the holder thereof to practice the healing art, or any branch thereof.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

### Practice without Certificate Forbidden

Sec. 11. Any person who practices the healing art, or any branch thereof, without having obtained a valid certificate from the State Board of Examiners in the Basic Sciences, except as otherwise authorized by this Act,<sup>1</sup> shall be fined not less than Fifty Dollars (\$50), nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment. Each day of such violation shall constitute a separate offense.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

### Fraudulent Certificate Forbidden

Sec. 12. Any person who obtains a basic science certificate by fraudulent means, or who forges, counterfeits or fraudulently alters any such

certificate, shall be punished by confinement in the penitentiary for not less than two (2) nor more than five (5) years.

#### **Bribery Forbidden**

Sec. 13. Any person who shall bribe or offer to bribe any member of the Basic Science Board authorized to issue a certificate of proficiency in the basic sciences, for the purpose of obtaining a certificate of proficiency in the basic sciences, shall be confined in the penitentiary not less than two (2) nor more than five (5) years.

#### **Fraudulent Licenses Forbidden**

Sec. 14. Any person who knowingly obtains for himself a license to practice the healing art, or any branch thereof, or who aids, advises or assists another in so doing without first obtaining a certificate of proficiency from the Basic Science Board created hereby, or any person who shall present to a licensing board authorized to grant licenses to practice the healing art, or any branch thereof, a certificate obtained from the State Board of Examiners in the Basic Sciences by dishonesty or fraud or by any forged or counterfeit certificate of proficiency, or who knowingly aids, advises or assists another in so doing, shall be guilty of a felony, and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than Two Thousand Dollars (\$2,000), or imprisonment in the penitentiary for not less than two (2) nor more than five (5) years, or by both such fine and imprisonment.

#### **Enforcement**

Sec. 15. It shall be the duty of every District Judge in this State, who is required by law to impanel grand juries, to explain to each grand jury the provisions of this Act,<sup>1</sup> and to direct the said grand jury to inquire as to whether or not any provisions of this Act have been violated, and if sufficient evidence has been discovered, to return true bills of indictment.

In the enforcement of this law, the Board shall be represented by the Attorney General and by the County and District Attorneys of this State. The Board, any committee or any member thereof, shall have the power to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records and documents, to administer oaths and to take testimony concerning all matters within its or his jurisdiction. The Board shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Act. Said action for an injunction shall be in addition to any other action, proceeding or remedy authorized by law.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

#### **Exceptions.**

Sec. 16. The provisions of this Act<sup>1</sup> do not apply to dentists, duly qualified and registered under the laws of this State, who confine their practice strictly to dentistry, or those persons under the jurisdiction of the Texas State Board of Dental Examiners; nor to duly licensed optometrists who confine their practice strictly to optometry as defined by Statute; nor to nurses who practice nursing only; nor to duly licensed chiropodists, who confine their practice strictly to chiropody as defined by Statute; nor to masseurs in their particular sphere of labor; nor to commissioned or contract Surgeons of the United States Army, Navy or Public Health and Marine Hospital Service, in the performance of their duties, and not engaged in private practice; nor legally qualified physicians of other States called in consultation, but who have no office

in Texas, and appoint no place in this State for seeing, examining or treating patients. The Basic Science Law shall not affect or limit in any way the application or use of the principles, tenets or teachings of any church in the ministration to the sick or suffering by prayer, without the use of any drug or material remedy, provided sanitary and quarantine laws and regulations are complied with, provided however, that the provisions of this Act shall not apply to a member of any religious faith in administering the last rites of his faith and provided further that all those so ministering or offering to minister to the sick or suffering by prayer shall refrain from maintaining office, except for the purpose of exercising the principles, tenets or teachings of the church of which they are bona fide members; nor shall the Basic Science Law apply to persons licensed to practice the healing art, or any branch thereof, in the State of Texas when this Act shall take full force and effect; nor shall the Basic Science Law apply to any Chiropractor who is a graduate of a school which was regularly organized and conducted as a chiropractic school in the United States at the time of such graduation and who has practiced Chiropractic one (1) year immediately preceding the effective date of this Act and who has resided in Texas for two (2) years immediately preceding the effective date of this Act and who has never had a license to practice any branch of the healing art cancelled by any American or Canadian State, Province or Territory, provided, however, that licenses voided by virtue of the decision in *Ex Parte Halsted*, 182 S. W. (2nd) 479, shall not be construed as licenses cancelled as provided by this Section. As amended Acts 1949, 51st Leg., p. 522, ch. 287, § 1.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

Effective 90 days after July 6, 1949, date of adjournment.

#### **Certificates issued to persons having college or university credits**

Sec. 16—a. The Board shall issue a certificate of proficiency to any person who is otherwise qualified by law and who shall present to the Board, a transcript of credits certifying that such person has satisfactorily completed sixty (60) or more semester hours of college credits at a college or university which issues credits acceptable by The University of Texas leading toward a Bachelor of Arts or a Bachelor of Science Degree; said college or university credits shall include the satisfactory completion of all of the subjects enumerated in Section 1 of this Act with an average of seventy-five per cent (75%) or better in each of such courses; and The University of Texas shall offer at the Main University, at Austin, Texas, beginning with the fall semester 1949, courses in each of the above-enumerated subjects.

#### **Graduates enrolled before act became law**

Sec. 23a. The provisions of this Act<sup>1</sup> shall not apply to graduates of schools of the healing arts who have been enrolled in their respective schools for at least one (1) year prior to the time this Act becomes law and who have attended said schools under the G. I. Bill of Rights and were bona fide residents of the State of Texas at the time they entered the military service, provided further that this Section shall not apply to any person who entered the military service after January 1, 1946. Added Acts 1949, 51st Leg., p. 522, ch. 287, § 2.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

Effective 90 days after July 6, 1949, date of adjournment.

**Saving Clause**

Sec. 24. In the event any section or part of section or provision of this Act<sup>1</sup> be held invalid, unconstitutional, or inoperative this shall not affect the validity of the remaining sections, or parts of sections of the Act, but the remainder of the Act shall be given effect as if said invalid, unconstitutional, or inoperative section, or any part of section or provision, had not been included. In the event any penalty, right, or remedy created or given in any section or part of this Act is held invalid, unconstitutional or inoperative, this shall not affect the validity of any other penalty, right or remedy created or given by either the whole Act, or in the section thereof containing such invalid, unconstitutional, or inoperative part; and if any exception to, or any limitation upon, any general provision herein contained shall be held to be unconstitutional or invalid, the general provision shall, nevertheless, stand effective and valid, as if the same had been enacted without such limitation or exceptions.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

**Present Licensure Acts Not Repealed**

Sec. 25. No provisions of this Act<sup>1</sup> shall be construed as repealing any statutory provision in force at the time of its passage with reference to the requirements governing the issuance of licenses to practice the healing art, or any branch thereof, or as in any way lessening such requirements.; Acts 1949, 51st Leg., p. 170, ch. 95.

<sup>1</sup> This article and Vernon's Ann.P.C., arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

Emergency. Effective April 28, 1949.

Sections 17-19 are published as Vernon's Ann.P.C. arts. 742—a to 742—c, sections 20 and 21 as Vernon's Ann.P.C. arts. 744—a and 744—b, sections 22 and 23 as Vernon's Ann.P.C. arts. 160—a and 160—b.

Section 3 of the amendatory act of 1949 read as follows: "If any provision of this

Act shall be held invalid such invalidity shall not affect the remaining portions of this Act and the Legislature declares that it would have enacted such remaining portions despite such invalidity."

Naturopathy law not to affect this law, see art. 4590d.

**CHAPTER 17—NATUROPATHY [NEW]**

Art.

4590d. Practice of naturopathy.

**Art. 4590d. Practice of naturopathy**

**Appointment and Qualification.**

Section 1. The State Board of Naturopathic Examiners shall consist of six (6) reputable practicing naturopathic physicians who have resided in the State of Texas and have been actively engaged in the practice of naturopathy for five (5) years next preceding their appointment, none of whom shall be members of the faculty of any naturopathic college or shall have a financial interest in any such college. The term of office of each member of said Board shall be six (6) years, except that as the first Board appointed hereunder two (2) of its members shall serve for a term of two (2) years, two (2) of its members for a term of four (4) years and two (2) of its members for a term of six (6) years, the respective terms of the first members so appointed to be designated by the Governor in appointing them. Within thirty (30) days after this Act becomes effective, the six (6) members of said Board shall be appointed by the Governor of the State and confirmed by the Senate; two (2) to serve for two (2) years, two (2) for four (4) years and two (2)

for six (6) years, or until their successors shall be appointed and qualify. Thereafter, at the expiration of the term of each member first appointed, his successor shall be appointed by the Governor of the State and he shall serve for a term of six (6) years or until his successor shall be appointed and qualify. Before entering upon the duties of his office each member of the Board shall take the Constitutional Oath of office, same to be filed with the Secretary of State. At its first meeting the Board shall organize by electing one (1) member President and one (1) Secretary chosen to serve one (1) year. Said Board shall hold regular meetings at least twice a year at such times and places as the Board shall deem most convenient for applicants for examination. Due notice of such meetings shall be given by publication in such papers as may be selected by the Board. The Board may prescribe administrative rules and regulations, in harmony with the provisions of this title governing its own proceedings and the examinations of applicants for the practice of naturopathy. The Governor of Texas shall be empowered to remove any Board member provided for in this Act after a hearing before him or a referee for malfeasance or misfeasance in office, and shall appoint a successor for the unexpired term.

#### **Board to Aid in Enforcing Statutes.**

Sec. 2. The State Board of Naturopathic Examiners is charged with the duty of aiding in the enforcement of the Statutes of this State regulating the practice of naturopathy and any member of said Board may present to a prosecuting officer complaints relating to violations of such Statutes; and said Board, through its members, officers, counsel and agents may assist in the trial of any cases involving alleged violations of said Statutes subject to the control of the prosecuting officers.

#### **Reciprocal Arrangements.**

Sec. 3. The State Board of Naturopathic Examiners may, in the discretion of the Board in each instance, upon payment by the applicants for registration of a fee of Fifty Dollars (\$50) grant license to practice naturopathy to any reputable naturopathic physician who is a graduate of a reputable naturopathic college or has qualified on examination for the license of naturopathic qualification for a commission as a naturopathic physician in the Medical Corps of the United States Army or Navy and to licentiates of other States or Territories having requirements for naturopathic registration and practice equal to those established by this Law. Applications for license under the provisions of this Article shall be in writing and upon a form to be prescribed by the State Board of Naturopathic Examiners. Said application shall be accompanied by a diploma or a photograph thereof, awarded to the applicant by a reputable naturopathic college, or a certified transcript of the certificate of license or commission issued to the applicant by the Medical Corps of the United States Army or Navy, or by a license or a certified copy of license to practice naturopathy, lawfully issued to the applicant by some other State or Territory; and shall also be accompanied by an affidavit from an executive officer of the Medical Corps of the United States Army or Navy, the President or Secretary of the Board of Naturopathic Examiners who issued the said license or diploma, or by a legally constituted naturopathic registration officer of the State or Territory in which the certificate or license was granted upon which the applications for naturopathic registration in Texas are based. Said affidavit shall recite that the accompanying certificate of license has not been cancelled or revoked except by honorable discharge by the Medical Corps of the

United States Army or Navy, and that the statement of qualifications made in the application for naturopathic registration in Texas is true and correct. Applicants for license under the provisions of this Article shall subscribe to an oath in writing which shall be a part of said application, stating that the license, certificate, or authority under which the applicant practiced naturopathy in the State or Territory from which the applicant removed, was at the time of such removal in full force and not suspended or cancelled; that the applicant is the identical person to whom the said certificate, license, or commission and the said naturopathic diploma was issued, and that no proceeding was pending at the time of such removal, or is at the present time pending against the applicant for the cancellation of such certificate, license, or authority to practice naturopathy in the State or Territory in which the same was issued, and that no prosecution was then, or is at the time of the application pending against the applicant in any State or Federal court for any offense which under the Law of Texas is a felony. Provided, however, that all licenses and certificates issued under the provisions of Chapter 49, Public Acts of 1943, Seventy-third General Assembly of Tennessee, as amended by Chapter 43, Public Acts of 1945, Seventy-fourth General Assembly of Tennessee, shall be construed as licenses and certificates revoked, suspended and cancelled for cause.

**County Clerk to Record License; Fee.**

Sec. 4. Every person to whom a license is issued by the State Board of Naturopathic Examiners shall before beginning the practice of naturopathy at any place in this State, present the same to the County Clerk of the county in which he resides and offers to practice, and to the County Clerk of each and every other county in which he may practice or offer to practice; said County Clerk shall record said license in a book provided for the purpose, and receive fifty cents (50¢) therefor. Absence of the record of such license in any place where such license is hereby required to be recorded shall be prima-facie evidence in any court of this State of the want of possession of such license.

**License Required to Practice.**

Sec. 5. No person shall practice or offer, or attempt to practice naturopathy in this State, without first having obtained a license from the State Board of Naturopathic Examiners, as provided for in this Law, provided, however, that this Law shall not apply to licensed physicians and surgeons in the regular practice of their profession. Provided, however, no provisions of this Act shall be construed as repealing, modifying, or suspending the Medical Practice Act governing the issuances of licenses to physicians and surgeons, or as in any way lessening such requirements.

**Record of Board.**

Sec. 6. Said Board shall keep a record in which shall be registered the name and residence or place of business of all persons authorized under this Law to practice naturopathy in this State.

**Fees and Expenses.**

Sec. 7. Each member of the State Board of Naturopathic Examiners shall receive for his services Ten Dollars (\$10) per day for each day he is actually engaged in the duties of his office together with all legitimate expenses incurred in the performance of such duties. All per diem and expenses accruing hereunder shall be paid from moneys received by said Board from applicants for examination by order of said Board of

Examiners and from the "Naturopathic Registration Fund" as provided in this Law; no money shall ever be paid to any member of the Board from the General Fund.

**Examination for License to Practice Naturopathy.**

Sec. 8. It shall be the duty of the Board to examine applicants for license to practice naturopathy in this State; and the Board shall examine and grade all papers submitted by such applicants and report to such applicants within a reasonable time after the date of such examination, and said report shall give to each applicant the grades made by said applicant upon each and every subject upon which he or she was examined by such Board. Each person applying for examination shall pay to said Board a fee of Twenty-five Dollars (\$25), and upon passing a satisfactory examination before said Board in such basic subjects as anatomy, including histology, physiology, chemistry, bacteriology, hygiene, public health and pathology and on diagnosis and subjects in the Arts and Sciences of Naturopathy which the Board may require, shall be granted a license to practice naturopathy in this State. The examinations shall be conducted in writing, and in such manner as to be entirely fair and impartial to all individuals. All applicants shall be known to the examiners only by numbers, without names, or other method of identification on examination papers by which members of the Board may be able to identify such applicants or examinees, until after the general averages of the examinees' numbers in the class have been determined, and license granted or refused. If the applicant receives a credit of seventy-five per cent (75%) or more in each of said subjects, he shall be considered as having passed the examination. If the applicant receives less than seventy-five per cent (75%) in one (1) subject and receives seventy-five per cent (75%) or more in each of the remaining subjects, he shall be allowed a re-examination at the examination next ensuing, on application and payment of the prescribed fees, and he shall be required to be re-examined only in the subject in which he received less than seventy-five per cent (75%). If the applicant receives less than seventy-five per cent (75%) in more than one (1) subject he shall not be re-examined unless he presents proof, satisfactory to the Board, of additional study in the said subjects sufficient to justify re-examination, and shall then be re-examined in all subjects. Provided, however, no applicant shall ever be entitled to more than three (3) examinations.

**Qualifications of Applicants.**

Sec. 9. Each applicant for a license to practice naturopathy in this State shall be not less than twenty-one (21) years of age, a citizen of the United States of America, and shall

- (a) present a diploma from a high school;
- (b) evidence of two (2) years of college work if graduated from a naturopathic college after January 1, 1954;
- (c) four (4) years of nine (9) months each in a reputable, nationally recognized naturopathic college, or a medical college, whose entrance requirements and courses of instruction are as high as those adopted by a better class of medical schools and naturopathic colleges of the United States of America;
- (d) each applicant must serve one (1) year of internship in some recognized hospital;
- (e) and must give evidence of being a person of good moral character.

**Refusing Examination of License; Revocation of License.**

Sec. 10. The State Board of Naturopathic Examiners shall have authority to refuse to examine any person or refuse to issue a license to any person for any one (1) or more of the following causes:

(a) Proof of presentation to the Board of any dishonest or false evidence of qualification or being guilty of any illegality, fraud or deception in the process of examination, or for the purpose of securing a license.

(b) Proof of chronic or habitual intoxication or addiction to drugs on the part of the applicant, or prior conviction of a crime involving moral turpitude.

(c) Proof that the applicant has been guilty of dishonest practices in or connected with the practice of naturopathy.

The State Board of Naturopathic Examiners shall have authority after notice of hearing, as hereinafter provided, to suspend or revoke a naturopathic license for any one (1) or more of the following causes:

(a) Proof of insanity of the applicant or holder of a license as adjudged by the regularly constituted authorities.

(b) Proof of conviction of the applicant or holder of a license of a felony involving moral turpitude under the Laws of this State or any other State of the United States.

The District Courts of the State shall have the authority, after a proper hearing, to revoke or suspend any naturopathic license issued in the State of Texas for any one (1) or more of the following causes:

1. That the holder thereof has been guilty of dishonorable conduct or gross incompetency in the practice of naturopathy.

2. That the holder thereof has been guilty of any deception or misrepresentation for the purpose of soliciting or obtaining patronage.

3. That the person is guilty of untrue, fraudulent, misleading, or deceptive advertising.

4. That the holder thereof procured a license through fraud or misrepresentation.

5. That the holder thereof is addicted to habitual intoxication or the use of drugs.

6. That the holder thereof has failed or refused to comply with the provisions of this Act.

Proceedings to suspend or revoke a naturopathic license on account of any one (1) or more of the causes set forth in this Article shall be taken as follows:

(a) Where the cause involves a criminal conviction or a conviction of insanity in some court of competent jurisdiction, upon the receipt by the Board of a certified copy of the records of the court of conviction showing a final conviction, the Board shall then proceed to set a time and place not less than ten (10) days nor more than thirty (30) days, for a hearing to consider the revocation or suspension of such license, or licenses, and shall mail by registered mail to the last-known address of such person, or persons, a copy of such record of conviction, together with notice of hearing, and such notice shall state the grounds to be relied upon by said Board for suspension or revocation of such license. Such hearing shall be governed by such rules and regulations as may be prescribed by the Board. After such hearing, the Board shall enter an order in its minutes, as in the opinion of the Board the facts brought out at such hearing justify and require; provided, however, certified copies of the records of the court of conviction shall be sufficient to justify the Board in revoking or suspending a naturopathic license. Provided, however, that any order revoking or suspending such license, or licenses,



shall be signed by a majority of such Board and by all members of such Board present at such hearing.

If said Board shall make and enter any order revoking or suspending any license, or licenses, as hereinabove provided, the person, or persons, whose license shall have been so revoked or suspended may, within thirty (30) days, after the making and entering of such order, take an appeal to the District Court of the county of the residence of the person, or persons, whose license shall have been so revoked or suspended, by filing an appropriate petition for such purpose. Said cause shall be placed on the docket of said Court in the name of the party, or parties, filing same, as plaintiff, and the State Board of Naturopathic Examiners as defendants. It shall be the duty of said Board, upon the filing of a petition asking for an appeal and review of such proceedings of said Board by the person, or persons, accused, and after citation in such cause has been issued and<sup>1</sup> transmit to such District Court upon notice from such Court a transcript of the orders hereinabove provided for, the same to be certified as true and correct by the Secretary of said Board. Such District Court shall thereafter and under the rules of procedure applicable to other civil cases, proceed to set such cause, if such court shall find that the action of said Board in revoking or suspending such license, or licenses, was justified, an order shall be made and entered in appropriate form sustaining and affirming action of such Board, provided, however, that the person, or persons, whose license shall have been so revoked or suspended may waive the empanelling of a jury from which order an appeal may be taken to the Court of Civil Appeals, as in other civil cases.

(b) Where the suspension or revocation is based upon any other cause, the proceedings shall be before a District Court of the State or the county in which the alleged offense occurred by complaint to the court, and it shall be the duty of the several District and County Attorneys of the State to file and prosecute appropriate judicial proceedings in the name of the State on the request of any member of the State Board of Naturopathic Examiners and/or when complaint is made to the court, by any County or District Attorney, as herein provided, said court shall order the accused naturopathic physician to show cause why his license shall not be suspended or revoked. Such complaint shall be made in writing. The charge and ground thereof shall be set out distinctly and the same shall be subscribed and sworn to by the prosecutor and filed with the Clerk of the Court. Citation thereon shall be issued in the name of the State of Texas and in manner and form as in other cases, and the same shall be served upon the defendant at least ten (10) days before the trial date set therein. Upon the return of said citation executed, if the defendant shall appear and deny the charge, the cause shall be docketed for trial and conducted in the name of the State of Texas against the defendant. A jury of twelve (12) men shall be summoned as in cases during termtime of the court when no regular jury is available and as prescribed by law and shall be empaneled unless waived by the defendant, and the cause shall be tried in like manner as in other civil cases. If the said accused naturopathic physician be found guilty or shall fail to appear and deny charge after being cited as aforesaid, the court may by proper order entered on the minutes, suspend his license for a time or revoke and cancel it entirely and may also give proper judgment of costs.

<sup>1</sup> So in enrolled bill. Probably should read "to."

**Application, Registration Fund and Secretary.****Sec. 11.**

1. It shall be the duty of all persons now lawfully qualified and engaged in the practice of naturopathy in this State, or who shall hereafter be licensed for such practice by the State Board of Naturopathic Examiners, to be re-registered as such practitioners with the State Board of Naturopathic Examiners on or before March 1st of each calendar year. Each person so re-registering shall pay in connection with such annual re-registration for the receipt hereinafter provided for, a fee of Five Dollars (\$5), such payment to be made to said State Board of Naturopathic Examiners. Upon receipt of such re-registration fee, said Board, after ascertaining either from its records or other sources deemed by it to be reliable, that the applicant is a duly licensed practitioner of naturopathy in this State, shall issue to the applicant an annual re-registration certificate or receipt certifying that he has paid the required fee; provided, that the payment of such fee, and the issuance of such receipts therefor, shall not entitle the holder thereof to lawfully practice naturopathy within the State of Texas unless he has in fact been previously licensed as such practitioner by the State Board of Naturopathic Examiners, as provided by this Law, and has duly recorded his license in the county, or counties, in which the same may be required by law to be recorded, and unless said license is in full force and effect; and provided further, that in any prosecution for the unlawful practice of naturopathy, such receipt alone showing payment of the annual re-registration fee required by this chapter shall not be treated as evidence that the holder thereof is lawfully entitled to practice naturopathy.

2. If any person required to re-register as a practitioner of naturopathy under the provisions hereof, shall fail or refuse to pay such re-registration fees on or before March 1st of each calendar year, as hereinabove set forth, his license to practice naturopathy, issued to him, shall thereafter stand suspended so that for thereafter in practicing naturopathy, he shall be subject to penalties imposed by law upon any person unlawfully practicing naturopathy. Provided, that such license shall be reinstated at any time upon written application of the holder made to said Board with such information or facts which the Board may require, accompanied by the payment of the annual re-registration fee in arrears and an additional fee of Five Dollars (\$5). Provided, however, that the requirements governing the payment of annual re-registration fees and penalties for late registration shall not apply to licensees who are on active duty with the Armed Forces of the United States of America.

3. All annual re-registration fees collected by the State Board of Naturopathic Examiners under this Act shall be placed in the State Treasury every thirty (30) days, as collected, to the credit of a special fund to be known as the "Naturopathic Re-registration Fund," and all expenditures from this fund shall be on order of the State Board of Naturopathic Examiners, on warrants issued by the State Comptroller for the purposes and in the amounts fixed by the Legislature in the general appropriation bills. On August 31st of each year, all money in excess of Ten Thousand Dollars (\$10,000) remaining in said "Naturopathic Re-registration Fund" shall revert to the General Revenue Fund in the State Treasury. The State Board of Naturopathic Examiners shall be authorized to employ and to compensate from such special fund employees and such other persons as may be found necessary to assist the local prosecuting officers of any county in the enforcement of all Laws of the State prohibiting the unlawful practice of naturopathy, and to carry

out the other purposes for which said fund is hereby appropriated. Provided, that all such prosecutions shall be subject to the direction and control of the regularly and duly constituted prosecuting officers, and nothing in this Act shall be construed as depriving them of any authority vested in them by law.

To aid the Board in performing the duties prescribed in this Section, the Board is hereby authorized to employ a secretary who shall receive a salary to be fixed by the Board, and who shall make and file a surety bond in a sum of not less than Five Thousand Dollars (\$5,000), conditioned for the faithful performance of all the duties of his office and for the safekeeping and proper disbursement of said "Naturopathic Re-registration Fund" and all other funds coming into his hands; such salary shall be paid out of said "Naturopathic Re-registration Fund" and shall not be in any way a charge upon the General Revenue of the State. Said Board shall employ and provide such clerks and employees as may be needed to assist the Secretary in performing his duties and in carrying out the purposes of this Act, provided, that their compensation shall be paid only out of the said "Naturopathic Re-registration Fund." All disbursements from the "Naturopathic Re-registration Fund" shall be made only upon the written approval of the President and Secretary of said Board and upon warrants drawn by the Comptroller to be paid out of said fund.

#### **Persons practicing before passage of statute**

Sec. 12. Any naturopathic physician who has been practicing naturopathy in this State for three (3) years next preceding the passage of this Act and when membership was not fraudulently obtained, shall be granted a license under the provisions of this Act, provided however, that any naturopathic physician having resided in Texas three (3) years and having practiced naturopathy for one (1) year in Texas next preceding the passage of this Act will not be required to have a certificate of proficiency from the Minimum Standards Board as a prerequisite for obtaining such naturopathic license; naturopathic physicians in practice in this State for more than one (1) year, but less than three (3) years, shall be examined in theory, philosophy, pathology, practice, symptomatology, and diagnosis, peculiar to naturopathy; all naturopathic physicians who have been in practice in this State for less than one (1) year shall be required to take examinations as provided in Section 8 hereof.

#### **Exceptions.**

Sec. 13. Nothing in this Act shall be construed to apply to any medical physician and surgeon, to any dentist authorized to practice dentistry in Texas, or to any other person under the jurisdiction of the State Board of Dental Examiners, to any osteopath, to any chiropractor, to any Christian Scientist or other person, who, by religious or spiritual means, endeavors to prevent or cure disease or suffering in accord with the tenets of any church.

#### **Advertisements**

Sec. 13A. No person or individual licensed under the terms of this Act shall ever place any professional advertisement in any newspaper in this State which shall in anywise contain any references or statements in regard to the merits of naturopathy, and no such advertisement shall ever contain anything more than the name, profession, and address of the individual licensed under the terms of this Act. Such advertisement shall not be more than two (2) columns wide and two (2) inches deep. Any person or individual who violates the provisions of this Section

shall be guilty of a misdemeanor, and shall be punished by fine of not less than One Hundred Dollars (\$100) nor more than Two Hundred Dollars (\$200), and in addition thereto shall have his license to practice cancelled.

**Penalties.**

Sec. 14. Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction therefor, shall be punished by a fine of not less than Fifty Dollars (\$50) and not more than Two Hundred Dollars (\$200) or imprisonment in the county jail for not less than thirty (30) days, nor more than six (6) months, or by both such fine and imprisonment.

**Injunction or order enforcing compliance**

Sec. 15. Whenever, in the judgment of any District Attorney of the State of Texas, or the Naturopathic Board acting officially any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, the District Attorney may in the name of the State of Texas or the Naturopathic Board by its President in the name of the Board make application to an appropriate court for an order enjoining such person, acts or practices, or for an order enforcing compliance with such provisions and upon a showing by said Board or District Attorney that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order or other appropriate order shall be granted without bonds, and said injunction shall be accumulative of any other remedy of enforcement of the provisions of this chapter.

**Terms which may be used**

Sec. 16. Licentiates under this Act are hereby authorized to use any or all of the following terms: Doctor of Naturopathy or its abbreviation, "N. D.," or Naturopath v. Naturopathic Physician. None of these terms, or any combination of them, shall be so used as to convey the idea that the physician who used it or them practices anything other than naturopathy.

**Display of license; type of advertising and signs**

Sec. 17. Every licensed naturopathic physician shall display his or her license in either his or her office or reception room and none shall be permitted to make use of "Billboard" type signs, advertising, or displays.

**Definition; other forms of treatment not authorized**

Sec. 18. For the purpose of this Act, naturopathy and natureopathy shall be construed as synonymous terms, and the practice of naturopathy or natureopathy, is hereby defined as that philosophy and system of the healing art embracing prevention, diagnosis, and treatment of human ills and functions by the use of several properties of air, light, heat, cold, water, manipulation with the use of such substances, nutritional as are naturally found in and required by the body, excluding drugs, Surgery, X-ray, and radium therapy, and the use of X-ray equipment.

Nothing in this Act shall be construed to be authority for any naturopath, licensed hereunder, to practice medicine as defined by the laws regulating the practice of medicine in this State, Surgery, Dentistry, Osteopathy, Chiropractic, Christian Science, or any other treatment or system of treatment authorized for by law, nor shall the provisions of this Act in any way or manner apply to or affect the practice of Medi-

cine, Surgery, Osteopathy, Christian Science, or any other treatment or system of treatment authorized and provided for by law for the prevention of human ills.

**Prior law not affected**

Sec. 18a. Provided, however, no provision of this Act shall amend or modify the provisions of H.B.No. 103, Acts of the Fifty-first Legislature;<sup>1</sup> provided further that the provisions of this Act shall be subject to the provisions of H.B.No. 103, Acts of the Fifty-first Legislature; and provided further that no Board shall be appointed, as provided in this Act, until the provisions of H.B.No. 103, Acts of the Fifty-first Legislature, have been complied with.

<sup>1</sup> Art. 4590c, Vernon's Ann.P.C. arts. 742—a, 742—b, 742—c, 744—a, 744—b, 160—a, 160—b.

**Compliance with other law**

Sec. 18b. Before any person shall be licensed under this Act he shall comply with the provisions of H. B. No. 103 of the Fifty-first Legislature.<sup>1</sup>

<sup>1</sup> Art. 4590c, Vernon's Ann.P.C. arts. 742—a, 742—b, 742—c, 744—a, 744—b, 160—a, 160—b.

**Partial invalidity**

Sec. 19. If any Section, paragraph, sentence or phrase of this Act shall be declared unconstitutional or void for any reason by any court of final jurisdiction, such fact shall not in any way or manner invalidate, or affect, any other Section, paragraph, sentence, or phrase, of this Act, but the same shall remain in full force and effect. Acts 1949, 51st Leg., p. 890, ch. 480.

Effective 90 days after July 6, 1949, date of adjournment.

Section 20 of the Act of 1949 repealed all conflicting laws and parts of laws.

**TITLE 75—HUSBAND AND WIFE****CHAPTER TWO—MARRIAGE CONTRACTS**

Art.

4612a. Premarital examinations for syphilis  
[New].**Art. 4612a. Premarital examinations for syphilis****Physician's certificate as to examination**

Section 1. No marriage license shall be issued unless each applicant files with the county clerk a certificate from a duly qualified physician licensed to practice medicine and surgery in Texas, or in any state or in any territory of the United States where applicants may reside but who wish to marry in Texas. The certificate shall state that the applicant has been given an actual and thorough examination, including a standard serologic test for syphilis. The examination shall not have been more than fifteen (15) days prior to the date of issuance of such license and the certificate shall show that the results of such examination, tests and history showed that the person examined was free from any infectious condition of syphilis. No physician shall issue such certificate to any person whom he knows or has reasons to believe is infected with any condition of syphilis that would be infectious or who has any clinical evidence of infectious venereal disease.

**Laboratory report**

Sec. 2. The certificate shall be accompanied by a report from the person in charge of the laboratory making the standard serologic test, or from some other person authorized to make such reports setting forth the name of the test, the date it was made, the name and address of the physician to whom the report was sent, and the name and address of the person whose blood was tested, but not stating the result of the test.

**Form of certificate and report**

Sec. 3. The physician's certificate and laboratory report shall be on a form prepared and provided by the State Board of Health. This form is referred to in this Act as the certificate form.

**Standard serologic tests defined; execution of tests**

Sec. 4. For the purpose of this Act, "standard serologic tests" shall mean all such tests or procedures as may be approved by the State Board of Health. Such tests shall be executed, for any physician, without charge by all State, county and city laboratories. Private laboratories approved by the State Health Department may also execute the tests called for by this Act. The State Health Officer shall immediately forward to all county clerks the names of approved laboratories and, thereafter, those added, withdrawn, or reinstated. Only the certificate form required under this Act shall be accepted by the county clerk.

**Tests executed in other states and territories**

Sec. 5. Persons who may reside in any State or in any territory of the United States but who wish to marry in Texas may present certificates showing that the required tests were executed by an official laboratory of any of the other States or territories of the United States or by a laboratory certified by any State Health Department. Such certificates shall be accompanied by an affidavit made by the director of the labora-

tory executing the tests stating that the laboratory had been certified by the State Health Department.

**Detailed report**

Sec. 6. Upon a separate form to be furnished by the State Board of Health a detailed report of the examination or approved serologic test, showing the result of the examination or test, together with the certificate form, shall be transmitted by the laboratory to the certifying physician, and a copy of the detailed report of the laboratory shall be submitted to the State Board of Health, where it shall not be open to public inspection; provided that it may be produced for evidence at a trial or proceeding in a court of competent jurisdiction, involving issues in which it may be material and relevant, on an order of a judge of the court requiring its production, and provided also that it may be used in the compilation of aggregate figures and reports, without disclosing the identities of the persons involved.

**Filing certificate or court order; indorsement of license**

Sec. 7. Before the county clerk shall issue any marriage license, he shall file in his office the certificates or alternate court order required by this Act, and, previous to the issuance of the license, he shall certify upon the reverse side of the said license that all certificates or the court order required by this Act have been so received and filed. This statement of the county clerk shall also show the dates of the examination of both parties to the marital contract unless same has been suspended by court order.

**Waiver of requirements by court order**

Sec. 8. Any judge of a county or district court within the county in which the license is to be issued is authorized and empowered, on joint application by both applicants for a marriage license, to waive the requirements as to medical examinations, laboratory tests, and certificates and to order the county clerk to issue the license, if the judge is satisfied by proof that sufficient cause for such action exists and that the public health and welfare will not be injuriously affected thereby. The order of the court shall be filed by the county clerk in lieu of the certificate form. All records connected therewith shall be held in absolute confidence and shall not be open to public inspection and the hearings on the application shall not be made public.

**Existing laws and regulations**

Sec. 9. Nothing in this Act shall impair or affect existing laws or rules or regulations made by authority of law, relative to the reporting of cases of venereal diseases discovered by physicians in the course of their practice.

**Duration of license**

Sec. 10. Marriage licenses issued under the provisions of this Act shall become invalid and of no effect unless the marriage be solemnized within fifteen (15) days from the date of the examination, and no person authorized to solemnize marriages shall perform said marriage after the expiration of fifteen (15) days from the date of examination as disclosed by the county clerk's certificate called for by Section 7 of this Act and if he does so, he shall be punished as provided for herein.

**Saving Clause.**

Sec. 12. In the event any Section, or part of Section or provision of this Act be held invalid, unconstitutional, or void, this shall not affect the validity of the remaining Sections, or parts of Sections of this Act.

**Penalty.**

Sec. 13. Any person who misrepresents any fact required to be stated on the certificate form or any form required by this Act, or any county clerk who issues a marriage license without having received the certificate form or an order from the court, or failing to comply with all provisions of this Act, or any person or agency failing to comply to or conform with all requirements of this Act, shall be guilty of a misdemeanor and upon conviction fined not less than Two Hundred Dollars (\$200) nor more than Five Hundred Dollars (\$500). Acts 1949, 51st Leg., p. 1060, ch. 547.

Effective 90 days after July 6, 1949, date of adjournment.

Section 11 of the Act of 1949 repealed all conflicting laws and parts of laws.

**CHAPTER THREE—RIGHT OF MARRIED WOMEN**

Art.

4624a. Partition or exchange of community property between husband and wife [New].

**Art. 4624a. Partition or exchange of community property between husband and wife**

Section 1. A husband and wife, without prejudice to pre-existing creditors, may from time to time, by written instrument as if the wife were a feme sole, partition between themselves in severalty or into equal undivided interests all or any part of their existing community property, or exchange between themselves the community interest of one spouse in any property for the community interest of the other spouse in other community property. Such partition or exchange shall be effectuated by a written instrument subscribed and acknowledged by both spouses in the manner now required by law for the conveyance of realty; whereupon the property or interest in property set aside to each spouse by such instrument shall be and constitute a part of the separate property of such spouses.

Such partition shall not be good or effectual against a purchaser in good faith, without notice thereof and for a valuable consideration, nor against any creditor unless filed for record with the County Clerk of the county or counties in which such property shall be situated.

If such instrument purports to exchange property or to partition property between the husband and wife, otherwise than as equal undivided interest in the same property, or as equal shares or units of identical personal property, such instrument shall not be valid unless approved by the Court upon written application of the husband and wife, addressed to the District Court of the county in which they or either of them reside. Such petition must set out facts showing that the transaction is not to the disadvantage of the wife, and shall be filed and docketed as in other cases, and at any time thereafter the District Court may, in term time, take up and hear said petition and evidence in regard thereto, and enter an order accordingly either approving or disapproving the transaction.

Sec. 2. This Act shall be cumulative of all laws governing conveyance of property, and no provision of this Act shall be construed as limiting or restricting the right of the husband to execute to his wife a conveyance or gift of all or any portion of his interest in the community property. Acts 1949, 51st Leg., p. 450, ch. 242.

Emergency. Effective May 21, 1949.



**TITLE 78—INSURANCE****CHAPTER ONE—COMMISSIONER OF INSURANCE**

Art.

4698b. Joint groups and advisory organizations [New].

**Art. 4682b. Fixing rate of automobile insurance—Filing classification of risks and premium rates****Exclusion of types or classes of insurance**

There shall be excluded from regulation under the provisions of this Act any insurance against liability for damages arising out of the ownership, operation, maintenance or use of or against loss of or damage to motor vehicles described in the foregoing section which may, in the judgment of the Commissioner, be a type or class of insurance which is also the subject of or may be more properly regulated under the terms or provisions of other insurance rating laws heretofore or hereafter enacted covering such insurance. If such situation shall be found to exist, then the Commissioner shall make an order declaring which of the said rating laws shall be applicable to such type or class of insurance, and to any motor vehicle equipment mentioned in Section 1 of this law. Acts 1927, 40th Leg., p. 373, ch. 253, § 1A, added Acts 1949, 51st Leg., p. 847, ch. 462, § 1.

Emergency. Effective June 21, 1949.

Joint underwriting or reinsurance groups and advisory organizations, see art. 4698b.

**Art. 4698a. Board of Insurance Commissioners; control over casualty, fidelity, surety and guaranty insurance; licensing and rating organizations**

Joint underwriting or reinsurance groups and advisory organizations, see art. 4698b.

**Art. 4698b. Joint groups and advisory organizations****Joint Underwriting or Joint Re-insurance**

Section 1. (a) Every group, association or other organization of insurers which engages in joint underwriting or joint re-insurance, shall be subject to regulation with respect thereto as herein provided.

(b) If, after a hearing, the Board of Insurance Commissioners finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this Act or with the laws applicable thereto, it may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the applicable laws, and requiring the discontinuance of such activity or practice.

**Advisory Organizations**

Sec. 2. (a) Every group, association or other organization of insurers, whether located within or outside this State, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations but which does not make filings under any of the laws referred to in Section 4 of this Act, or which

assists the Board of Insurance Commissioners in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, shall be known as an advisory organization.

(b) Every advisory organization shall file with the Board: (1) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation and of its by-laws, rules and regulations governing its activities; (2) a list of its members; (3) the name and address of a resident of this State upon whom notices or orders of the Board or process issued at its direction may be served; and (4) an agreement that the Board may examine such advisory organization in accordance with the provisions of Section 3 of this Act.

(c) If, after a hearing, the Board finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this Act or with the applicable laws referred to in Section 4 of this Act, it may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, or with the applicable laws referred to in Section 4 of this Act, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the Board involving such statistics or recommendations issued under sub-section (c) of this section. If the Board finds such insurer or rating organization to be in violation of this sub-section it may issue an order requiring the discontinuance of such violation.

#### Examinations

Sec. 3. The said Board may, as often as it may deem it expedient, make or cause to be made an examination of each group, association or other organization referred to in Sections 1 and 2 of this Act. The reasonable costs of any such examination shall be paid by the group, association or other organization examined upon presentation to it of a detailed account of such costs. The officer, manager, agents and employees of such group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the Board may accept the report of an examination made by the insurance supervisory official of another State, pursuant to the laws of such State.

#### Scope of Act

Sec. 4. This Act applies to the kinds of insurance and to the insurers subject to Chapter 253, Acts of 1927, 40th Legislature, as amended by Chapter 335, Acts of 1937, 45th Legislature<sup>1</sup>; Chapter 160, Acts of 1945, 49th Legislature<sup>2</sup>; Articles 4878 to 4895, inclusive, Acts of 1917; Chapter 161, Acts of 1945, 49th Legislature<sup>3</sup>; and Articles 4907 to 4918, inclusive, Acts of 1923, as amended by Chapter 171, Acts of 1931, 42nd Legislature. Acts 1949, 51st Leg., p. 998, ch. 539.

<sup>1</sup> Article 4682b.

<sup>2</sup> Article 4698a.

<sup>3</sup> Article 4905a.

Emergency. Effective July 6, 1949.

#### Title of Act:

An Act to further regulate the business of insurance; authorizing the examination by the Board of Insurance Commissioners

of joint underwriting or joint re-insurance groups, and advisory organizations; and declaring an emergency. Acts 1949, 51st Leg., p. 998, ch. 539.

## CHAPTER TWO—INCORPORATION OF INSURANCE COMPANIES

### Arts. 4705, 4711, 3034, 2916. Items of capital stock

The capital stock of any such insurance company, except any writing Life, Health, and Accident Insurance, shall consist:

1. In lawful money of the United States; or
2. In the bonds of this State or any county or incorporated town or city thereof, or in the stock of any National Bank, or in the stock of any State Bank of Texas whose deposits are insured by the Federal Deposit Insurance Corporation; provided, however, that if said capital stock consists of the stock of a State Bank of Texas that not more than thirty-five per cent (35%) of the total outstanding stock of any one (1) State Bank of Texas may be so used as capital stock of any one (1) insurance company, and provided further that neither the insurance company whose capital stock consists of said bank stock nor any other insurance company may either invest its funds in nor use as capital stock the remaining stock of any such State Bank.
3. In first mortgages upon unencumbered real estate in this State, the title to which is valid, and the market value of which is not less than forty per cent (40%) more than the amount loaned thereon. If any part of the value of such real estate is in buildings, such buildings shall be insured against loss by fire for not less than sixty per cent (60%) of the value thereof, with loss clause payable to such company. Provided, that the provisions of this Article, with respect to the value of real estate, compared to the amount loaned thereon, shall not apply to loans secured by real estate which are insured by the Federal Housing Administrator. As amended Acts 1949, 51st Leg., p. 1105, ch. 564, § 1.

Effective 90 days after July 6, 1949, date of adjournment. provided that all laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only.

Section 2 of the amendatory act of 1949,

## CHAPTER THREE—LIFE, HEALTH AND ACCIDENT INSURANCE

Art.

4764c. Credit life insurance and credit health and accident insurance [New].

### 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, including revenue and special obligations, of any educational institution of the State of Texas; or any municipally owned water system or sewer system when special revenues, or income to meet the principal and interest payments as they accrue upon such obliga-

tions 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,<sup>1</sup> 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 which has not defaulted in the payment of any debt within five (5) years next preceding such investment; or of any solvent corporation which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; or in the debentures of any such corporation with a capital stock of not less than Five Million (\$5,000,000.00) Dollars 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 43rd Legislature, Second Called Session.<sup>2</sup>

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 obligation 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 foregoing restrictions as to the value of the real estate security

compared to the amount loaned thereon and as to the duration of such loans shall not be applied to loans if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States, or by the State of Texas, or, if not 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 the State of Texas, would not exceed the amount of loan permissible under the said restrictions.

3. It may invest its capital, surplus, and contingency funds over and above the amount of its policy reserves in the capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of any solvent corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent corporation which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; and it may loan its capital, surplus, and contingency funds, or any part thereof, over and above the amount of its policy reserves, taking as security therefor any of the above mentioned capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of any such corporation, the current market value of which such stock, 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 it shall not invest in nor take as collateral security for any loan its own capital stock nor more than ten per cent (10%) of the amount of its capital, surplus, and contingency funds in the stock of any one corporation, nor in the stock of any manufacturing corporation with a capital stock of less than Twenty-five Thousand (\$25,000.00) Dollars, nor in the stock of any oil corporation with a capital stock of less than Five Hundred Thousand (\$500,000.00) Dollars, and provided further that it shall not invest any of its funds nor take as collateral security any stock on account of which the holder or owner thereof may in any event be or become liable to any assessment except for taxes.

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.

4. It may invest not to exceed ten per cent (10%) of its capital, surplus, and contingency funds, in not more than twenty per cent (20%) of the capital stock of any other insurance company, now or hereafter organized under this Chapter, whose principal business is the re-insurance, either partially or wholly, of risks ceded to it by other life insurance companies. The investment herein authorized may be made by purchase of stock then issued and outstanding or by subscription to and

payment for the increase in the capital stock of such re-insurance corporation.

5. It may invest any of its funds and accumulations in shares or share accounts of Building and Loan Associations organized under the laws of this State, or in the shares or share accounts of Federal Savings and Loan Associations, where such shares are insured under and by virtue of the Federal Savings and Loan Insurance Corporation; and in the stock of banks, either state or national, that are members of the Federal Deposit Insurance Corporation; provided, however, that under this Section 5, and except as authorized in Section 3 of this Article, no more than five per cent (5%) of the admitted assets of the insurance company making the investment may be made in such shares or share accounts of Building and Loan Associations or Savings and Loan Associations or in the stock of such banks, and no such investment shall exceed twenty per cent (20%) of the total outstanding shares of any such individual Building and Loan Association, Savings and Loan Association, or stock of such Bank. The investment powers conferred by this Section 5 are in addition to those conferred by Section 3 of this Article and are not to be construed as restricting the powers already granted by said Section 3, and this Section 5 and the powers conferred herein are cumulative with respect to the said Section 3 and the powers conferred therein.

6. It may invest any of its funds and accumulations in the debentures of any solvent public utility corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment provided such corporation has succeeded to the business and assets and has assumed the liabilities of another such corporation, and which public utility corporation and the public utility corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; provided further, that such public utility corporation shall not have failed in any one of the five (5) years next preceding such investment to have earned, after taxes, including income taxes, and after deducting proper charges for replacements, depreciation and obsolescence, a sum applicable to interest on its outstanding indebtedness equal at least to three times the amount of interest due for that year, or where, in the case of issuance of new debentures, such earnings applicable to interest are equal to at least three times the amount of annual interest on such public utility corporation's obligations after giving effect to such new financing; or, in the case of a public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment but has succeeded to the business and assets and has assumed the liabilities of another such corporation, and which public utility corporation and the public utility corporation so succeeded have not failed in any one of the five (5) years next preceding such investment to have earned, after taxes, including income taxes, and after deducting proper charges for replacements, depreciation and obsolescence, a sum applicable to interest on the outstanding indebtedness equal at least to three times the amount of interest due for that year, or where in the case of issuance of new debentures such earnings applicable to interest are equal to at least three times the amount of annual interest on such public utility corporation's obligations after giving effect to such new financing; but in no event shall the amount of such investment in debentures under this subdivision exceed five (5%) per cent of the admitted assets of the insurance company making the investment.

7. It may invest any of its funds and accumulations in the preferred stock of any solvent public utility corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment provided such corporation has succeeded to the business and assets and has assumed the liabilities of another such corporation, and which public utility corporation and the public utility corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; provided further, that such public utility corporation shall not have failed in any one of the five (5) years next preceding such investment to have earned a sum applicable to the dividends on such preferred stock equal at least to three times the amount of dividends due in that year, or, in the case of issuance of new preferred stock, such earnings applicable to dividends are equal at least to three times the amount of the annual dividend requirements after giving effect to such new financing, and where the bonds and debentures are eligible investments for such insurance company; or, in the case of a public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment, but has succeeded to the business and assets and has assumed the liabilities of another such corporation, and which public utility corporation and the public utility corporation so succeeded have not failed in any one of the five (5) years next preceding such investment to have earned a sum applicable to the dividends on such preferred stock equal at least to three times the amount of dividends due in that year, or, in the case of issuance of new preferred stock, such earnings applicable to dividends are equal at least to three times the amount of the annual dividend requirements after giving effect to such new financing, and where the bonds and debentures are eligible investments for such insurance company; provided that any preferred stock so purchased shall be of an issue which is entitled to first claim upon the net earnings of such public utility corporation after deducting such sum as may be necessary to service any outstanding bonds and debentures, but in no event shall the amount of such investment in preferred stock under this subdivision exceed two and one-half (2½%) per cent of the admitted assets of the insurance company making the investment. As amended Acts 1949, 51st Leg., p. 815, ch. 439, § 1.

Emergency. Effective June 19, 1949.

Section 2 of the amendatory Act of 1949, read as follows: "Should any portion, section, sentence, clause, phrase, or word in this bill be unconstitutional or invalid, same shall in nowise affect and render in-

valid any other portion of this Act; and the Legislature declares that it would have passed and enacted all of the remaining portions of this Act notwithstanding such unconstitutionality or invalidity."

#### Art. 4764c. Credit life insurance and credit health and accident insurance

##### Definitions

Section 1. The following words and phrases as used in this Act shall have the following meanings unless a different meaning is plainly required by the context:

A. "Insurer" means any company, corporation, Lloyds, Reciprocal, Fraternal, inter-insurance exchange, mutual assessment association, or other insurance carrier licensed to transact an insurance business in this state.

B. (1). "Credit Life Insurance", and "Credit Health and Accident Insurance" mean personal insurance in which the insured are borrowers

of sums of money not exceeding One Thousand (\$1,000.00) Dollars from lenders who retain an interest in the insurance as security to the loan, and any other personal insurance written in connection with or as a part of such loan transaction. "Credit Health Insurance" and "Credit Health and Accident Insurance" as used in this Act shall never be taken to mean or refer to any contract insuring performance of any undertaking or agreement, and are expressly limited in their coverage to the contingencies of death or loss resulting from sickness and accident.

(2). The provisions of this Act shall apply only to the writing of "Credit Life Insurance" and "Credit Health and Accident Insurance", as defined in this Act, both as to "Insurer" and "Insurance Agent" and "Lender Agent" as defined in this Act.

C. "Insurance Agent" means any person, firm, or association of persons now or hereafter required by law to be licensed as an insurance agent.

D. "Lender Agent" means any insurance agent who may also be in the business of making loans individually or as employee, agent, or officer of any person, corporation, or association of persons in the loan business.

E. "Lender" means any person, firm, corporation or association of persons engaged in the business of making loans.

F. "Loan" shall mean the total indebtedness of the borrower to the lender, whether evidenced by one or more promissory notes or otherwise.

G. "Board" shall mean the Board of Insurance Commissioners of the State of Texas.

**Fee for privilege of writing; schedule of rates; statistics and information**

Sec. 2. A. The State of Texas shall assess and collect from each credit insurer writing credit insurance in Texas an annual fee for such privilege not exceeding Three Hundred (\$300.00) Dollars, which shall be independent of and in addition to all other fees and taxes now imposed, or which may hereafter be imposed by law against any credit insurer. Such assessment shall be made by order of the Board of Insurance Commissioners. Said fees, when collected, shall be paid to the State Treasurer, to be deposited in the General Fund of the state.

B. It shall be the duty of the Board to make and file a schedule of reasonable and adequate maximum rates which may be charged by credit insurers on credit insurance policies. Such schedule of rates shall be made and filed only after hearing, notice of which shall be sent by the Board by first-class mail to each insurer writing credit insurance within this state, not less than ten (10) days before the hearing. To insure the adequacy and reasonableness of such maximum rates, the Board may take into consideration experience gathered from territories within this state sufficiently broad to include the varying conditions of the risks involved, and over a period sufficiently long to insure that the maximum rates determined therefrom shall be just and reasonable as they may apply to the insuring public, and adequate and non-confiscatory as they may apply to credit insurers. The Board is hereby authorized and empowered to require sworn statements from any credit insurer transacting the business of credit insurance within this state, showing its experience in premiums collected and claims paid over a reasonable period of time and such other information as the Board shall find to be necessary or helpful in making the maximum rate schedules. After said maximum schedules have been so made and filed, the Board shall cause to be mailed a copy of such maximum rate schedules to each credit insurer transacting business in this state. Each credit insurer shall file with the Board duplicate copies of the rate schedules adopted by it, which rate



schedules shall be so filed within thirty (30) days from the date the maximum rate schedule was placed in the mails by the Board. If the Board shall approve the schedule or rates so filed by the insurers, the Board shall endorse its approval and the date thereof on both copies, one of which shall be retained by the Board and the other copy returned to the insurer to be kept as a part of its permanent files. With the consent of the Board an insurer may change the rates by adopting and filing with the Board a new rate schedule in the same manner as hereinabove provided, but in each instance each rate shall be within the maximum therefore promulgated by the Board.

C. It shall be the continuing duty of the Board to gather such data, statistics and information as it can from time to time with respect to the experience of credit insurers within and without the State of Texas as it may find beneficial in fixing and maintaining reasonable and adequate credit insurance rates from time to time.

#### **Application of act**

Sec. 3. This Act shall apply to and embrace all insurers, insurance agents, lenders, and lender agents, who may write or solicit credit insurance in this state.

#### **Borrower to have choice of insurer and agent**

Sec. 4. No lender or lender agent shall hereafter require as a condition for the making of a loan that the borrower purchase either credit life or credit health and accident insurance from such lender, lender agent or any insurer represented by them. It shall be permissible for such lender or lender agent to require of a borrower such credit life or credit health and accident insurance or both as a condition for making the loan, if, and only if, the borrower is given the option to purchase such insurance from any insurer or insurance agent of his own choice. It is the intent of this section to prohibit coercion of insurance and to preserve to each citizen the right to choose his own insurer and insurance agent.

#### **More than one policy on one loan prohibited**

Sec. 5. No insurer, insurance agent, lender or lender agent shall knowingly solicit, issue or deliver, or knowingly permit to remain in effect or force, more than one policy of credit life insurance or more than one policy of credit health and accident insurance, either or both in connection with any loan, irrespective of the number of persons obligated on the loan.

#### **Commissions not deemed interest; contingent commissions**

Sec. 6. Commissions received by lenders, lender agents and insurance agents from insurers for the writing of credit insurance complying with the terms of this Act, the maximum rates promulgated by the Board, and rules and regulations of the Board of Insurance Commissioners, shall be considered for all purposes as compensation for services rendered to such insurer and shall not be taken to be an interest charge on the money borrowed; provided, however, should such commissions be in excess of any maximum fixed hereunder, then such commissions shall be deemed to be an interest charge on the money borrowed. No agreements by insurers with any of its agents shall permit contingent commissions based on loss experience.

**Application and statement; term and provisions of policies**

Sec. 7. No policy of credit insurance shall hereafter be solicited, written or delivered in this state, except on substantial compliance with the following requirements:

A. The insurer shall receive from the borrower a written application for such insurance, signed by him, setting out:

1. The kind, amount and term of coverage applied for;
2. The premium to be charged for each coverage;
3. The amount and date of the loan note;
4. The amount and frequency of the installment payments; and
5. A statement by the applicant that he was given the option to purchase such insurance from any insurer or agent of his own choice, and that he freely chose the insurer and agent to whom the application is made. The form of such application shall be filed with and approved by the Board at such time as the Board shall direct.

B. Credit life insurance policies shall insure against the contingency of death from any cause whatsoever and shall be incontestable from date of issue; except that with approval of the Board, the policy may provide for reduced benefits in the event of suicide by the insured. The terms of such life insurance policies shall not extend more than one month beyond the term of the loan, or one year, whichever is greater.

C. Credit health and accident policies shall insure against the contingency of disability from sickness or accident of every kind and character whatsoever, originating and occurring within the term of the policy; except that with approval of the Board, the policy may provide for reduced benefits in the event of pregnancy or self-inflicted injury. The terms of such health and accident policies shall not extend more than one month beyond the term of the loan. The policy of health and accident insurance may provide an amount of insurance in such proportion to the unpaid balance of the loan as shall be approved by the Board.

D. The policies of health and accident and of life insurance shall be non-cancellable by the insurer during the term. Life insurance policies shall be non-cancellable by the insured and the premium shall be considered fully earned when paid. Health and accident insurance policies may be cancelled by the insured upon payment of the loan, and the unearned portion of the premium, calculated on such basis as the Board shall approve, shall be refunded to the insured.

E. The forms of credit insurance policies shall be filed with and approved by the Board before such policies may be issued or delivered. The premium rates to be charged for credit insurance shall be filed and approved by the Board.

**Use of existing rates**

Sec. 8. Rates which have heretofore been adopted in full compliance with any orders, rules or regulations of the Board of Insurance Commissioners, and which are in use by each credit insurer when this Act becomes effective, may be continued to be used by such insurers until same may be changed by the Board as provided hereunder.

**Rules and regulations**

Sec. 9. The Board is hereby authorized to promulgate rules and regulations to carry out the spirit and purposes of this Act, including, but without limiting the generality hereof, the reserve requirements and records to be maintained on such business, the method of insurance and

delivery of the policies, and the standards and methods for the settlement of claims.

**Excessive rates deemed interest; report and legal proceedings**

Sec. 10. Any rate, premium, or assessment charged and collected by an insurer, insurance agent, or lender agent in excess of the rate, premium, or assessment set out in said insurer's rate schedule on file with the Board, and in force at the time, is declared to be an exaction of interest on the money borrowed. It shall be the duty of the Board to report forthwith to the Attorney General of Texas any facts coming to its attention indicating that such excess rate, premium, or assessment has been charged and collected, and he in turn shall deliver such evidence to the proper District or County Attorney for proper legal proceedings under the usury laws, or himself bring such proceedings.

**Cancellation of permit or license**

Sec. 11. The Board, upon hearing, after not less than ten (10) days notice, may cancel the permit or license of any insurer, insurance agent, or lender agent who violates any of the provisions of this Act.

**Hearings and appeals**

Sec. 12. Any person having an interest in the subject matter of any order or finding of the Board shall have the right to a hearing before such Board, as the case may be. Appeal from any such order or finding may be made within thirty (30) days from its date to one of the District Courts in Travis County, where the matter shall be heard and tried de novo.

**Rates other than schedule rates**

Sec. 13. It shall be unlawful for any insurer writing credit insurance, insurance agent, lender agent, lender or their officers, agents, or employees, to charge, receive, or collect any rate, premium, or assessment on any policy of credit insurance other than the rate, premium, or assessment set out in said insurer's rate schedule on file with and approved by the Board and in force at that time. Any officer, agent, or employee of any credit insurer, insurance agent, lender agent, or lender, who charges, receives, or collects any rate, premium or assessment in violation of this Act, or any officer of such insurer, insurance agent, lender agent, or lender who knowingly permits it to be done, shall be punished by fine not less than Five Hundred (\$500.00) Dollars, nor more than Two Thousand (\$2,000.00) Dollars, or by imprisonment in the County Jail not to exceed two (2) years, or by both such fine and imprisonment.

**Group life insurance and other kind of insurance not affected**

Sec. 14. Nothing in this Act shall ever be construed to include or affect in any manner group life insurance issued under the provisions of House Bill No. 420, Chapter 208, page 366, Acts 50th Legislature, 1947,<sup>1</sup> or any other kind of insurance written by insurance carriers or their insurance agents other than credit life insurance and credit health and accident insurance as defined herein.

<sup>1</sup> Article 4764a.

**Repeals**

Sec. 15. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict.

**Severability of provisions**

Sec. 16. The provisions of this Act are severable; and in the event the courts declare any part of it unconstitutional, the other provisions of the Act shall, nevertheless, remain in full force and effect. Acts 1949, 51st Leg., p. 132, ch. 81.

Emergency. Effective April 18, 1949.

**CHAPTER FOUR—TEXAS SECURITIES AND GROSS RECEIPTS TAX****Art.**

4769. Tax on insurance organizations not organized under laws of Texas [New].	4769½. Additional tax on insurance organizations not organized under laws of Texas [New].
---	---

**Art. 4766. 4776 Texas securities**

The term "Texas Securities", as used in this Chapter, shall also be to include all bonds issued under and by virtue of the Federal Farm Loan Act approved July 17, 1916,<sup>1</sup> when such bonds are issued against and secured by promissory notes or other obligations the payment of which is secured by mortgage, deed of trust, or other valid lien upon unencumbered real estate situated in this State; bonds of the State of Texas; bonds or interest-bearing warrants of any county, city, town, school district, State educational institution, or other municipality or subdivision which is now or may hereafter be constituted or organized and authorized to issue such bonds or warrants under the constitution and laws of this State; notes or bonds secured by mortgage or trust deed upon real estate situated in this State and insured or guaranteed in whole or in part by the United States or any agency or instrumentality thereof, or by the State of Texas or any agency or instrumentality thereof, together with any bonds, debentures or other evidences of indebtedness of the United States or any agency or instrumentality thereof, or the State of Texas or any agency or instrumentality thereof, received and retained in whole or partial settlement of any such insurance or guarantee; 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 a life insurance company's investments in the bonds of the United States of America that its Texas reserves are of its total reserves, but in no event in excess of the amount of bonds of the United States of America reported by said company as Texas securities in a Texas tax return covering the year 1946; promissory notes and other obligations, the payment of which is secured by a mortgage, deed of trust, or other valid lien upon unencumbered real estate situated in this State, the title to which real estate is valid and the market value of which is forty (40%) per cent more than the amount loaned thereon, exclusive of buildings unless such buildings are insured against fire and kept insured in some company authorized to transact business in the State of Texas, and the policy or policies transferred to the company taking such mortgage or lien; or upon first liens upon leasehold estates in real property and improvements situated thereon, the title to which is valid, and the leasehold has not less than thirty (30) years to run before expiration, provided that the duration of any loan upon such leasehold estates shall not exceed a period of ten (10) years. If any part of the value of such real estate is in buildings, such buildings shall be insured against fire and kept insured for at least fifty (50%) per cent of the value thereof in some company authorized to transact

business in this State and the policy or policies shall be transferred to the company taking such mortgage or liens.

The term "Texas Securities", as used in this Chapter, shall also be held to include first lien notes or first mortgage bonds of any solvent corporation incorporated under the laws of this State and doing business in this State, and which has paid, out of its actual earnings, dividends of an average of at least five (5%) per cent per annum on the par value of all of its par value stock outstanding and on the sale value of all of its no par value stock outstanding for a period of at least five (5) years next preceding the date of such investment, and which has not at any time defaulted in the payment of interest on any of its obligations; any such investment in the bonds of any one such corporation not to exceed five (5%) per cent of the admitted assets of the insurance company making the investment; obligations secured collaterally by the aforesaid bonds, warrants, notes, cash deposits and liens; and loans made to policyholders on the sole security of the reserve values of their policies. The investments required by this Chapter may be made by the purchase of not more than one building site, and in the erection thereon of not more than one office building, or in the purchase, at its reasonable market value, of such office building already constructed and the ground upon which the same is located in any city of the State of more than four thousand (4,000) inhabitants. All real estate owned by life insurance companies in this State on December 31, 1909, and all thereafter acquired under the provisions of this Chapter, or by foreclosure of a lien thereon shall be treated, to the extent of its reasonable market value, as a part of the investment required by this Chapter. And 'Texas Securities' shall be held to include every character of investment authorized by the terms of this Article; provided that the foregoing restrictions as to the value of the real estate security compared to the amount loaned thereon and as to the duration and dignity of such loans shall not be applied to loans if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States, or by the State of Texas or by any agency or instrumentality of either of them, or if not wholly so 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 the State of Texas or by any agency or instrumentality of either of them, would not exceed the amount of loan permissible under the said restrictions. As amended Acts 1949, 51st Leg., p. 813, ch. 438, § 1.

1 12 U.S.C.A. § 641 et seq.

Emergency. Effective June 19, 1949.

Section 2 of the amendatory act of 1949, provided that should any portion, section, sentence, clause, phrase, or word of this bill be unconstitutional or invalid, 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 of the remaining portions of this Act notwithstanding such unconstitutionality or invalidity.

#### Art. 4769. Tax on insurance organizations not organized under laws of Texas

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) not organized under the laws of this State and 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 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, 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 (1) occupation, shall pay an annual tax of three per cent (3%) 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<sup>1</sup> 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 it shall include as a part thereof that percentage of its investments in bonds of the United States of America that its reserves on policies of insurance issued on the lives of persons residing or domiciled in Texas are of its total reserves on all policies outstanding, but in no event shall it include any amount of such bonds in excess of the amount thereof reported by said company as Texas Securities in its Texas tax return covering the year 1946. If the report of such insurance organization as of December 31st, preceding, shows that such organization had invested in such Texas securities an amount which is more than seventy-five per cent (75%) and not 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 two and seventy-five one-hundredths per cent (2.75%) of such gross premium receipts; if the report shows that such insurance organization had invested in such Texas securities on such date an amount which is more than eighty per cent (80%) and not more than eighty-five percent (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 five-tenths per cent (2.5%) of such gross premium receipts; if the report shows that such insurance organization had invested in such Texas securities on such date an amount which is more than eighty-five per cent (85%) 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 two per cent (2%) 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 and seventy-five one-hundredths per cent (1.75%) of such gross premium receipts; provided, however, that all such insurance companies whose gross premium receipts are less than Four Hundred and 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, and provided further that the amount of examination and valuation fees paid in such taxable year to or for the use of the State of Texas by any insurance organization hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance organization for such taxable year. 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 (1) 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 31st, 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, not organized under the laws of this State, except, and only except unemployment 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. Acts 1949, 51st Leg., p. 1362, ch. 619, § 1.

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

Effective 90 days after July 6, 1949, date of adjournment.

Sections 2-5 of the act of 1949, read as follows:

"Sec. 2. This Act shall apply to the premiums collected after June 30, 1949 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 prior to July 1, 1949, 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 man-

ner 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. House Bill No. 23, known as Chapter 279, Page 442, Acts of the Regular Session of the Forty-ninth Legislature (known as Article 4769a, Vernon's Annotated Civil Statutes) is hereby repealed in so far as it applies to any group of individuals, society, association, or corporation not organized under the laws of this State except for the continuing obligation of any such insurance organization for the payment of any and all taxes that have accrued under the provisions of

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

said House Bill No. 23, known as Chapter 279, Page 442, Acts of the Regular Session of the Forty-ninth Legislature. This Act shall be cumulative of all other laws and shall repeal any other law only in so far as such other law shall levy any tax on any of the insurance organizations affected by this Act, or otherwise conflict with this Act, except as provided for 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."

### Art. 4769½. Additional tax on insurance organizations not organized under laws of Texas

In addition to all other taxes, there is hereby levied an additional tax for the years 1950 and 1951, upon every group of individuals, society, association, or corporation upon which a tax is levied by Chapter 619, Acts, Regular Session, Fifty-first Legislature.<sup>1</sup>

The tax shall be paid at the same time, in the same manner, and subject to all the same terms, conditions, obligations and penalties as is provided for the payment and collection of the tax levied in the aforesaid Chapter 619, Acts, Regular Session, Fifty-first Legislature.

The tax hereby levied for the year 1950, shall be ten per cent (10%) of three-fourths (3/4) of the amount of tax levied and due for the calendar year 1950 under the aforesaid Chapter 619, Acts, Regular Session, Fifty-first Legislature. The tax hereby levied for 1951 shall be two-thirds (2/3) of ten per cent (10%) of the amount of tax levied and due for the calendar year 1951 under the aforesaid Chapter 619, Acts, Regular Session, Fifty-first Legislature. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XVII, § 3.

<sup>1</sup> Arts. 4769, 4769a note.

Emergency. Effective Feb. 28, 1950.

### Art. 4769a. Report of premiums; annual tax; report of investments; payment of tax; exclusiveness

Repealed by Acts 1949, 51st Leg., p. 1365, ch. 619, § 4, and Acts 1949, 51st Leg., p. 1365, ch. 620, § 4 "in so far as it applies to any group of individuals, society, association, or other corporation organized under the laws of this State except for the continuing obligation of any such insurance organization for the payment of any and all taxes that have accrued under the provisions and said House Bill No. 23,

known as Chapter 279, Page 442, Acts of the Regular Session of the Forty-ninth Legislature. This Act shall be cumulative of all other laws and shall repeal any other law only in so far as said law shall levy any tax on any of the insurance organizations affected by this Act, or otherwise conflict with this Act, except as provided for herein."

## CHAPTER NINE—MUTUAL INSURANCE COMPANIES

### Art. 4860a—20. County Mutual Insurance Companies; definitions

#### Reserve funds

Sec. 16. County Mutual Insurance Companies shall maintain at all times unearned premium reserves for all unexpired risks by reserving fifty (50%) per cent of the unearned portion of premiums collected after the effective date of this Act on business in force or written thereafter having two (2) years or less to run, and by reserving a pro-rata of all premiums collected on risks that have more than two (2) years to run. The reserves herein required may be invested in such securities as the



reserve funds of other insurance companies are by law required to be invested. As amended Acts 1949, 51st Leg., p. 826, ch. 446, § 1.

Emergency. Effective June 19, 1949.  
Section 2 of the amendatory Act of 1949, provided that all laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict. This Act and such repeal shall in no way apply to fraternal benefit associations or to those county mu-

tual insurance organizations commonly known as "farm mutuals", and the laws described hereinabove shall continue in effect as to such farm mutuals not regulated by this Act, and as to new farm mutuals that may be incorporated in the future, in the same form as they existed immediately prior to the passage of this Act.

## CHAPTER TEN—STATE INSURANCE COMMISSION

### Arts. 4878, 4907

Joint underwriting or reinsurance groups and advisory organizations, see art. 4698b.

## CHAPTER ELEVEN—FIRE AND MARINE COMPANIES

Art.

4929a. Incorporation of provisions in policy; enforcement [New].

### Art. 4929. 4874, 3089 Policy a liquidated demand

A fire insurance policy, in case of a total loss by fire of property insured, shall be held and considered to be a liquidated demand against the company for the full amount of such policy. The provisions of this Article shall not apply to personal property. As amended Acts 1949, 51st Leg., p. 835, ch. 453, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

Section 2 of the amendatory act of 1949 is published as art. 4929a.

### Art. 4929a. Incorporation of provisions in policy; enforcement

On and after January 1, 1951, the provisions of the next preceding paragraph of Section 1 hereof shall be incorporated verbatim in each and every fire insurance policy hereafter issued as coverage on any real property in this State; and it shall be the duty of the Board of Insurance Commissioners, by proper order and procedure, to compel compliance with this Statute. Acts 1949, 51st Leg., p. 835, ch. 453, § 2.

Effective 90 days after July 6, 1949, date of adjournment.

### Art. 4932. 4875, 3075 Re-insurance

1. No insurance company incorporated under the laws of the United States or of any State thereof and authorized to do business in this State in the writing of fire and allied lines of insurance as those terms may now or hereafter be defined by Statute, by ruling of the Board of Insurance Commissioners of Texas, hereinafter called the "Board," or by lawful custom, shall expose itself to any loss or hazard on any one (1) risk, except when insuring cotton in bales and grain, to an amount exceeding ten per cent (10%) of its paid-up capital stock and surplus, unless the excess shall be reinsured by such company in another solvent insurer. Similarly, no insurance company incorporated under a jurisdiction other than that of the United States or a state thereof and authorized to do business in this State in the writing of said lines of insurance shall expose itself to any loss or hazard on any one (1) risk,

except when insuring cotton in bales and grain, to an amount exceeding ten per cent (10%) of the company's deposit with the statutory officer in the State through which the company gains admission to the United States, together with ten per cent (10%) of the other surplus to policyholders of the company's United States Branch, unless the excess shall be reinsured by such company in another solvent insurer.

2. Any insurance or reinsurance company authorized to transact insurance or reinsurance within this State as to lines of insurance defined in Section 1 hereof, may reinsure the whole or any part of an individual risk in another solvent insurer. The consent of the Board shall be obtained when an insurer reinsures all of its liability on its risks within any class of insurance defined in Section 1 hereof with another insurer not authorized to do business in Texas.

3. No credit for the reserve for unearned premium liability on such reinsurance shall be taken by the ceding insurer unless the assuming insurer is licensed to do business in this State, except that a ceding insurer domiciled in Texas may reinsure the whole or any part of risk or risks located without the State of Texas, the assuming insurer to be a solvent insurer duly licensed in the State or district where such reinsured risk or risks be located.

4. The Board shall require schedules of reinsurance to be filed by every insurer at the time of making the annual report and at such other times as it may direct.

5. As to the risk or classes of risks mentioned in Section 1 hereof, no credit shall be allowed to any ceding insurer for reinsurance made, ceded, renewed, or otherwise becoming effective after January 1, 1950, as an admitted asset or as a reduction of liability, unless by the terms of a written reinsurance agreement the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under any policy or contract reinsured without diminution because of the insolvency of the ceding insurer, nor unless under the contract or contracts of reinsurance the liability of such reinsurance is assumed by the assuming insurer or insurers as of the same effective date. Such reinsurance agreement may provide that the liquidator or receiver or statutory successor of an insolvent ceding insurer shall give written notice of a pendency of a claim against the insolvent ceding insurer on the policy reinsured within a reasonable time after such claim is filed in the insolvency proceeding, and that during the pendency of such claim any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where the claim is to be adjudicated any defense or defenses which it may deem available to the ceding insurer or its liquidator or receiver or statutory successor. Subject to court approval, the expense thus incurred by the assuming insurer shall be chargeable against the insolvent ceding insurer as part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer.

Where two (2) or more assuming insurers are involved in the same claim and a majority in interest elect to interpose defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding company.

6. Any licensed company may act in the obtaining of reinsurance from an insurer not licensed to do business in Texas through any of its officers or appointed representatives.

7. 'Assuming insurer' means that insurer which under a contract of reinsurance incurs to another insurer called the 'ceding insurer,' an

obligation of which the performance is contingent upon the incurring of liability or loss by the ceding insurer under its contract or contracts of insurance made with third persons.

8. None of the provisions of this Act shall prohibit the making of contracts to protect against catastrophe losses. Any ceding licensed insurer shall have the right to make such contracts with an assuming nonlicensed insurer and shall not be required to make the report thereof. As amended Acts 1949, 51st Leg., p. 1360, ch. 618, § 1.

Emergency. Effective July 26, 1949.

Section 2 of the amendatory act of 1949 provided that if any paragraph or portion of paragraph shall for any reason be declared invalid by a court of competent

jurisdiction, such adjudication shall not affect the validity of any other Section or portion of Section of this Act.

Section 3 repealed all conflicting laws and parts of laws.

**Art. 5012a. Mexican casualty insurance companies; policies in force while insured persons or property are in Mexico; requirements for issuance in state; deposit**

(e) Such carrier shall pay the State of Texas annually a premium or occupation tax based solely upon its gross premium receipts from insurance policies issued by it in Texas which cover resident citizens of Texas or property or risks principally domiciled or located in this State, as shown by reports made to the Board each year, upon the same percentage rate, and in the same manner, as other licensed insurance carriers in Texas writing accident and casualty coverage. Each such carrier likewise shall pay such other maintenance fees, charges and taxes and upon the same basis as other licensed insurance carriers writing accident and casualty coverage in Texas are required by law to pay; and shall make the same reports as are required of such other insurance carriers, but in such adapted forms as may be prescribed by the Board of Insurance Commissioners for such purposes. As amended Acts 1949, 51st Leg., p. 1067, ch. 551, § 1.

Emergency. Effective May 10, 1943.

Acts 1949, 51st Leg., ch. 551, effective June 24, 1949.

Section 2 of the amendatory Act of 1949 repealed all conflicting laws and parts of laws.

**CHAPTER TWENTY ONE—GENERAL PROVISIONS**

Art.

5068e. Direct insurance with unauthorized insurers [New].

**Art. 5068b. Licensing of agents**

**Fees and use of funds**

Sec. 7. It shall be the duty of the Life Insurance Commissioner to collect from every agent of any life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, or association or organization, local mutual aid association or statewide mutual association soliciting or writing insurance in the State of Texas under the provisions of this Act, an annual fee of Two Dollars (\$2), which fees shall constitute a fund to be used by the Life Insurance Commissioner to enforce the provisions of this Act and all laws of this State governing and regulating agents of such insurance companies; and the Life Insurance Commissioner is hereby given full power and authorized under authority to use any portion of the fund herein created for the purpose of enforcing the provisions of this Act and any and all such laws; and said Commissioner is authorized to employ such person or persons as he may deem necessary to investigate and make reports

upon any and all alleged violations of said laws and misconduct on the part of such agents and to pay the salaries and expenses of such person or persons so designated by him and all office employees and expenses necessary in the enforcement of this Act out of the funds created hereunder and such person or persons so appointed by the Commissioner are hereby authorized and empowered to administer the oath and to examine under oath any person deemed necessary in gathering information and evidence and to have the same reduced to writing if deemed necessary and all such expenses shall be paid out of said fund. If any residue for any years shall remain in said fund over and above the amount necessary to carry on the work and investigation and pay the expenses herein provided for, the same shall be carried over to the following year or years and used in the continuation of the enforcement of this Act and the insurance laws of this State and all such funds are hereby appropriated for such purpose. The funds collected under this provision shall be paid into the State Treasurer at least once each week and kept in a special fund and shall be paid out for salaries, traveling expenses, office expenses and other incidental expenses incurred by the Commissioner hereunder out of the funds created hereunder and such person or persons so appointed by the Commissioner are hereby authorized and empowered to administer authority and to examine under oath any person deemed necessary in gathering information and evidence and to have the same reduced to writing if deemed necessary and all such expenses shall be paid out of said fund. The funds collected under this provision shall be paid into the State Treasurer at least once each week and kept in a special fund and shall be paid out for salaries, traveling expenses and other incidental expenses incurred by the Commissioner hereunder upon proper account duly approved by the Life Insurance Commissioner. As amended Acts 1949, 51st Leg., p. 384, ch. 204, § 1.

Section 2 of the amendatory act of 1949 provided that this Act shall take effect March 31, 1950.

#### Art. 5068e. Direct insurance with unauthorized insurers

##### Purpose of act

Section 1. The purpose of this Act is to regulate the placing of policies or contracts, effecting direct insurance, with certain nonauthorized insurers, and to subject certain unauthorized insurers to the jurisdiction of courts of this State in suits by or on behalf of insureds or beneficiaries under insurance contracts. The Legislature declares that it is the subject of concern that the placing of such direct lines of insurance with unauthorized insurers is not properly regulated, and that many residents of this State hold policies of insurance issued by insurers not authorized to do business in this State, thus presenting to such residents the often insurmountable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such State interest, the Legislature herein provides a regulation as to the placing of such direct lines of insurance in such unauthorized companies, and the method of direct service and substituted service of process upon such insurers, and declares that in so doing it exercises its powers to protect its residents, and to define for the purpose of this Statute what constitutes doing business in this State, and also exercises powers and privileges available to the State by virtue of Public Law 15, Seventy-ninth Congress of the United States, Chapter 20, First Session, S. 340, as amended,<sup>1</sup> which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several States.

<sup>1</sup> 15 U.S.C.A. §§ 1011-1015.

**Licensing of agents; affidavit of insured**

Sec. 2. (a) The Board of Insurance Commissioners (hereinafter called the Board) of the State of Texas, upon payment of an annual license fee of Twenty-five Dollars (\$25) may issue to an agent who is regularly commissioned to represent one or more fire, fire and marine, inland, casualty or surety insurance companies, licensed to do business in this State, a certificate of authority to place lines of direct insurance affected hereby to be evidenced by policies of insurance or certificates of insurance in insurers not licensed to do business in this State (hereinafter sometimes referred to as unauthorized insurers). Each such license shall expire on the 31st day of the succeeding December. No diminution of the license fee herein provided shall occur as to any license effective after January 1st of any year. The Board may require written application for such license.

(b) Before receiving the license provided for in the preceding Section of this law, the party applying for same shall file with the Board a bond in the sum of Five Thousand Dollars (\$5,000) payable to the Governor, for the faithful observance of the provisions of this Article. Said bond shall be approved by the Board and be for the benefit of the State of Texas.

(c) When any policy of insurance or certificate of insurance is procured under the authority of such license, there shall be executed by the insured an affidavit setting forth facts showing that such insured was unable, after diligent effort, to procure from any licensed company or companies the full amount of insurance required to protect the property, liability or risk desired to be insured, and further showing that the amount of insurance procured from nonlicensed insurer or insurers is only the excess over the amount so procurable from licensed companies. Each such affidavit shall be filed with the Board along with the report required in subdivision (d) below.

(d) The agent so licensed shall report, under oath, to the Board within thirty (30) days from the first day of January and July of each year the amount of gross premiums received by him for such insurance in nonlicensed insurers, and shall pay to the Board a tax of five per cent (5%) thereon. The term "gross premiums" shall mean the total gross amount of premiums received on each and every such insurance, less returned premiums. In default of the payment of any sum which may be due the State under this law, the Board may sue for the same. The agent so licensed shall keep a separate record of all transactions as herein provided open at all times to the inspection of the Board.

**Acts not permitted; permissible acts of agents**

Sec. 3. Nothing contained in this Act shall authorize any person, firm, association, or corporation to guarantee or otherwise validate or secure the performance or legality of any agreement, instrument or policy of insurance of any insurer not licensed to do business in Texas, nor to permit or authorize any nonlicensed insurer to do any insurance business by or through any person or agent acting within this State; but agents licensed hereunder acting pursuant to this Act may issue and deliver to their clients, the insured, binders, policies and other confirmation of direct insurance so lawfully placed, and shall not be personally liable to the holder of any policy of insurance so issued or delivered for any loss covered by same.

**Suits against unlicensed insurers**

Sec. 4. A nonlicensed insurer may be sued upon any cause of action arising in this State under any contract issued by it as hereinabove au-

thorized, in a court of competent jurisdiction in any county in which the plaintiff may reside, or in which the cause of action arose. Any such policy or contract shall contain a provision authorizing service of citation or other legal process upon a person or firm whose name and address shall be set out therein, which said person, or at least one of the members of said firm, shall be residents of Texas. Or in lieu thereof any such policy or contract shall contain a provision authorizing service of citation or other legal process upon the chairman of the Board of Insurance Commissioners, designating the person to whom said chairman shall mail citation or other legal process. In the event service of legal process against a nonlicensed insurer is made by service upon the chairman of the Board of Insurance Commissioners, he shall forthwith mail citation or other document or process required to the person designated by the nonlicensed insurer in the policy for the purpose by registered mail with return receipt requested. In the event of service of citation or other legal process upon the chairman of the Board of Insurance Commissioners of Texas, the nonlicensed company shall have forty (40) days from date of service upon said chairman within which to plead, answer or otherwise defend the action. Upon service of process upon the chairman of the Board of Insurance Commissioners in accordance with this law, or upon the person or firm designated in the policy or contract in accordance with this law, the court shall be deemed to have jurisdiction in personam of the nonlicensed insurer. A nonlicensed insurer issuing such insurance policy or contract shall be deemed thereby to have authorized service of process against it in the manner and effect as provided in this law.

#### **Application of preceding and succeeding sections**

Sec. 5. As to any policy or contract issued pursuant to the preceding Sections of this Act, and as to any claim for loss or damage arising under any such policy or contract, the foregoing Sections of this Act shall apply, and the succeeding Sections of this Act shall not apply. As to any such policy or contract issued by an unauthorized insurer in a manner not provided in the preceding Sections of this Act, the following Sections of this Act shall apply.

#### **Service of Process upon Unauthorized Insurer**

Sec. 6. (a) As to any policy or contract issued by an unauthorized insurer in a manner not heretofore provided in this Act, any of the following Acts in this State, effected by mail or otherwise, by an unauthorized foreign or alien insurer, (1) the issuance or delivery of contracts of insurance to residents of this State or to corporations authorized to do business therein, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (4) any other transaction of business, is equivalent to and shall constitute an appointment by such insurer of the chairman of the Board of Insurance Commissioners and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance, and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this State upon such insurer.

(b) Such service of process shall be made by delivering to and leaving with the chairman of the Board of Insurance Commissioners, or some person in apparent charge of his office, two copies thereof and the payment to him of such fees as may be prescribed by law. The chairman of the Board of Insurance Commissioners shall forthwith mail by registered

mail one of the copies of such process to the defendant at its last known principal place of business, and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of such service and a copy of the process are sent within ten (10) days thereafter by registered mail by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business, and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(c) Service of process in any such action, suit or proceeding shall in addition to the manner provided in subsection (b) of this Section be valid if served upon any person within this State who, in this State on behalf of such insurer, is

(1) soliciting insurance, or

(2) making, issuing or delivering any contract of insurance, or

(3) collecting or receiving any premium, membership fee, assessment or other consideration for insurance; and a copy of such process is sent within ten (10) days thereafter by registered mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(d) No plaintiff or complainant shall be entitled to a judgment by default under this Section until the expiration of thirty (30) days from date of the filing of the affidavit of compliance.

(e) Nothing in this Section contained shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

#### **Defense of Action by Unauthorized Insurer**

Sec. 7. (a) As to any policy or contract issued by an unauthorized insurer in a manner not provided by Sections 1-3 of this Act, and as to any claim arising thereon or thereunder, before any unauthorized foreign or alien insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, such unauthorized insurer shall either (1) deposit with the clerk of the court in which such action, suit or proceeding is pending, cash or securities, or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action; or (2) procure a certificate of authority to transact the business of insurance in this State.

(b) The court in any action, suit, or proceeding, in which service is made in the manner provided in subsections (b) or (c) of Section 6, may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (a) of this Section and to defend such action.

(c) Nothing in subsection (a) of this Section is to be construed to prevent an unauthorized foreign or alien insurer from filing a motion

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

to quash a writ or to set aside service thereof made in the manner provided in subsections (b) or (c) of Section 6 hereof on the ground either (1) that such unauthorized insurer has not done any of the Acts enumerated in subsection (a) of Section 6, or (2) that the person on whom service was made pursuant to subsection (c) of Section 6 was not doing any of the Acts therein enumerated.

#### **Constitutionality**

Sec. 8. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. Acts 1949, 51st Leg., p. 1355, ch. 617.

Emergency. Effective July 26, 1949.

Section 9 of the Act of 1949 repealed all conflicting laws and parts of laws.



## TITLE 82—JUVENILES

- |          |   |  |
|----------|---|--|
| Art.     |   | twenty-four thousand (224,000)   |
| 5139D.   | Juvenile Board in certain counties in districts bordering on Mexico [New].                    | [New].   |
| 5139(E). | Juvenile boards in certain counties [New].  |  |
| 5142c.   | Juvenile Officers in Counties of one hundred and ninety thousand (190,000) to two hundred and | 5142c—1. Juvenile officers in counties in two judicial districts of four counties [New].     |
|          |   | 5142d. Salaries of Juvenile or Probation Officers; how fixed; automobile or allowance [New]. |
|          |   | 5143c. State Youth Development Council [New].  |

## Arts. 5119a, 5119b

State Youth Development Council, control by, see art. 5143c.

## Art. 5139. County Juvenile Board

In any county of this state which comprises a part of two judicial districts, each of which districts consists of four and the same four counties, and which four counties have a combined population of not less than one hundred sixteen thousand (116,000) according to the last preceding or any future Federal Census, the Judges of the 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 Three Hundred (\$300.00) Dollars per annum, nor more than Five Hundred (\$500.00) Dollars per annum, which shall be paid in twelve equal monthly installments out of the general fund of such county, such additional compensation to be fixed by the Commissioners Court of such county.

In any county having a population of less than seventy thousand (70,000) inhabitants according to the last preceding Federal Census, which county is included in, and forms a part of a judicial district of seven or more counties having a combined population of more than fifty-two thousand (52,000) inhabitants, or which county is included in and forms a part of a judicial district of five or more counties having a combined population of more than seventy-two thousand (72,000) and less than ninety-five thousand (95,000) inhabitants according to the last preceding Federal Census, or which county is included in and forms a part of a judicial district of five or more counties, in one or more of which counties the civil and criminal jurisdiction vesting by General Law in the County Court has been, or hereafter shall be, transferred to the exclusive jurisdiction of the District Court of such county or counties, and having a combined population in such judicial district of more than thirty-five thousand (35,000) inhabitants, according to the last preceding Federal Census; or which county is included in and forms a part of a judicial district composed of four counties having a combined population of not more than sixty-two thousand (62,000) inhabitants according to such last preceding Federal Census, one or more counties in which districts border on the International Boundary between the United States and the Republic of Mexico; the Judge of such judicial district, together with the County Judge of such county are hereby constituted a Juvenile Board for such county. The members composing such Juvenile Board in each such county shall each be allowed additional compensation of not less than One Hundred (\$100.00) Dollars per annum, and not more than Three Hundred (\$300.00) Dollars per annum,

which shall be paid in twelve equal installments out of either the General Fund or the jury fund of such county, such additional compensation to be fixed by the Commissioners Court of such county.

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 (\$600.00) Dollars per annum, nor more than One Thousand Two Hundred (\$1,200.00) Dollars per annum, which shall be paid in twelve equal installments out of the General Fund of such county, such 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 the 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 One Thousand Five Hundred (\$1,500.00) Dollars in addition to that paid the other District Judges of the state, said additional salary to be paid monthly out of the General Fund of such county, upon the order of the Commissioners Court. As amended Acts 1949, 51st Leg., p. 63, ch. 33, § 1.

*Amendment by Acts 1949, 51st Leg., p. 381, ch. 202, § 1; Acts 1949, 51st Leg., p. 699, ch. 366, § 1, see two arts. 5139, post.*

#### **Art. 5139. County Juvenile Board**

In any county having a population of less than seventy thousand (70,000) inhabitants according to the last preceding Federal Census, which county is included in, and forms a part of a Judicial District of seven (7) or more counties having a combined population of more than fifty-two thousand (52,000) inhabitants, or which county is included in and forms a part of a Judicial District of five (5) or more counties having a combined population of more than seventy-two thousand (72,000) inhabitants and less than ninety-five thousand (95,000) inhabitants according to the last preceding Federal Census, or which county is included in and forms a part of a Judicial District of five (5) or more counties, in one (1) or more of which counties the civil and criminal jurisdiction vesting by General Law in the County Court has been, or hereafter shall be, transferred to the exclusive jurisdiction of the District Court of such county or counties, and having a combined population in such Judicial District of more than thirty-five thousand (35,000) inhabitants, according to the last preceding Federal Census; or which county is included in and forms a part of a Judicial District composed of four (4) counties having a combined population of not more than sixty-two thousand (62,000) inhabitants according to such last preceding Federal Census, one (1) or more counties in which Districts border on the International Boundary between the United States and the Republic of Mexico; the Judge of such Judicial District, together with the County Judge of such county, are hereby constituted a Juvenile Board for such county. The members composing such Juvenile Board in each such county shall each be allowed additional compensation of not less than One Hundred Dollars (\$100) per annum, and not more than Three Hundred Dollars (\$300) per annum, which shall be

paid in twelve (12) equal installments out of either the general fund or the jury fund of such county, such additional compensation to be fixed by the Commissioners Court of such county.

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, nor more than One Thousand, Two Hundred Dollars (\$1,200) per annum, which shall be paid in twelve (12) equal installments out of the general fund of such county, such additional compensation to be fixed by the Commissioners Court of such county.

In any county having a population of more than eighty thousand (80,000) inhabitants and less than eighty-four thousand (84,000) inhabitants according to the last preceding Federal Census, the Judges of the several District Courts of such county, together with the County Judge of such county, are hereby constituted a Juvenile Board for such county. The Members composing such Juvenile Board in such county shall each be allowed additional compensation of not less than Six Hundred Dollars (\$600) per annum nor more than Twenty-five Hundred Dollars (\$2,500) per annum, which shall be paid in twelve (12) equal installments out of the general fund of such county, such additional compensation to be fixed by the Commissioners Court of such county.

In any county having a population of one hundred thousand (100,000) inhabitants or over, according to the preceding Federal Census, the Judges of the 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 One Thousand, Five Hundred Dollars (\$1,500) in addition to that paid the other District Judges of the State, said additional salary shall be paid monthly out of the general fund of such county, upon the order of the Commissioners Court. As amended Acts 1949, 51st Leg., p. 381, ch. 202, § 1.

*Amendment by Acts 1949, 51st Leg., p. 63, ch. 33, § 1, see art. 5139, ante.*

*Amendment by Acts 1949, 51st Leg., p. 699, ch. 366, § 1, see art. 5139, post.*

Emergency. Effective May 14, 1949.  
Sections 2 and 3 of the amendatory act of 1949, read as follows:

"Sec. 2. It is expressly declared that nothing in this Act shall be construed to repeal Article 6819—a, Acts of the Forty-ninth Legislature, Chapter 200, page 271, nor any law fixing other compensation for

the Judges of the District Courts or County Judges, and provided that the compensation allowed County Judges hereunder shall not be counted as fees of office.

"Sec. 3. If any part of this Act is declared unconstitutional, the remainder shall, nevertheless, be valid."

## Art. 5139. County Juvenile Board

Section 1. In any county having a population of less than seventy thousand (70,000) inhabitants according to the last preceding Federal Census, which county is included in and forms a part of a Judicial District of seven (7) or more counties having a combined population of more than fifty-two thousand (52,000) inhabitants, or which county is

included in and forms a part of a Judicial District of five (5) or more counties having a combined population of more than seventy-two thousand (72,000) and less than ninety-five thousand (95,000) inhabitants according to the last preceding Federal Census, or which county is included in and forms a part of a Judicial District of five (5) or more counties, in one (1) or more of which counties the civil and criminal jurisdiction vesting by General Law in the County Court has been, or hereafter shall be, transferred to the exclusive jurisdiction of the District Court of such county or counties, and having a combined population in such Judicial District of more than thirty-five thousand (35,000) inhabitants, according to the last preceding Federal Census; or which county is included in and forms a part of a Judicial District composed of four (4) counties having a combined population of not more than sixty-two thousand (62,000) inhabitants according to such last preceding Federal Census, one (1) or more counties in which districts border on the International Boundary between the United States and the Republic of Mexico, the Judge of such Judicial District together with the County Judge of such county, are hereby constituted a Juvenile Board for such county. The members composing such Juvenile Board in each county shall each be allowed additional compensation of not less than One Hundred (\$100.00) Dollars per annum, and not more than Three Hundred (\$300.00) Dollars per annum, which shall be paid in twelve (12) equal installments out of either the General Fund or the Jury Fund of such county, such additional compensation to be fixed by the Commissioners Court of such County.

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 (\$600.00) Dollars per annum, nor more than One Thousand Two Hundred (\$1,200.00) Dollars per annum, which shall be paid in twelve (12) equal installments out of the General Fund of such county, such 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 the several District and Criminal District Courts of such county together with the County Judge of such 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 One Thousand Five Hundred (\$1,500.00) Dollars in addition to that paid the other District Judges of the State, said additional salary to be paid monthly out of the General Fund of such county, upon order of the Commissioners Court.

Sec. 1a. In any county having a population of one hundred thousand (100,000) or over according to the preceding Federal Census, and which said counties border on the Gulf of Mexico, the members composing such Juvenile Board in such county, including the County Judge as a member of said Board, shall each be allowed additional compensation in the amount of One Thousand Five Hundred (\$1,500.00) Dollars per annum, which shall be paid in twelve (12) equal installments out of the General Fund of such county upon the order of the Commissioners Court. Compensation herein provided shall be in addition to the salary paid District

Judges and County Judges of the State and county. As amended Acts 1949, 51st Leg., p. 699, ch. 366, § 1.

*Amendment by Acts 1949, 51st Leg., p. 63, ch. 33, § 1; Acts 1949, 51st Leg., p. 381, ch. 202, § 1, see two arts. 5139, ante.*

Emergency. Effective June 13, 1949.

Acts 1949, 51st Leg., p. 943, ch. 517, § 1, read as follows: "It is expressly declared that no provision in Senate Bill No. 426, Acts of the Fifty-first Legislature, Regular Session, 1949, [ch. 366] shall be construed to repeal Article 6819a, Acts of the Forty-ninth Legislature, 1945, Chapter 200, page 271, nor any other law fixing other compensation for Judges of the District Courts or County Judges and provided that the compensation allowed County Judges in Senate

Bill No. 426, Acts of the Fifty-first Legislature shall not be counted as fees of office."

This section not repealed, see art. 5139d.

Compensation of judges in counties having eight or more courts, see, also, art. 6819a—5.

Emergency. Effective March 10, 1949.

Section 2 of the Act of 1949 read as follows: "If any part of this Act is declared unconstitutional, the remainder shall nevertheless be valid."

#### Art. 5139D. Juvenile Board in certain counties in district bordering on Mexico

Section 1. In any county having a population of less than 70,000 inhabitants according to the last preceding Federal Census, which county is included in and forms a part of a Judicial District, in which four or more of the counties composing same border on the International Boundary between the United States and the Republic of Mexico, the Judge of such Judicial District together with the County Judge of such county are hereby constituted a Juvenile Board for such county. The members composing such Juvenile Board in each such county shall each be allowed additional compensation of not less than One Hundred (\$100.00) Dollars per annum and not more than Three Hundred (\$300.00) Dollars per annum, which shall be paid in twelve equal installments out of the General Fund of such county, such additional compensation to be fixed by the Commissioners Court of such county.

Sec. 2. It is expressly declared that nothing in this Act shall be construed to repeal Article 6819a, except insofar as the same conflicts with this Act, Acts of the 49th Legislature, Chapter 200, page 271,<sup>1</sup> nor Article 5139 of the Revised Civil Statutes of Texas, 1925, as amended by Act of the 50th Legislature, Chapter 326, page 560, nor any law fixing other compensation for the Judges of the District Courts or County Judges; and provided that the compensation allowed County Judges hereunder shall not be counted as fees of office. Acts 1949, 51st Leg., p. 243, ch. 138.

<sup>1</sup> Article 6819a—3.

Emergency. Effective May 10, 1949.

#### Art. 5139(E). Juvenile boards in certain counties

(1) At the effective date of this Act there is hereby established and constituted a three-member Juvenile Board in each of the counties of this State coming within the purview of the provisions of Paragraph (2) hereof, to be composed of the County Judge of the county and the District Judges of the Judicial Districts therein. The County Judge of said county shall be chairman of such Board and its chief administrative officer. The official title of the Board in said county shall be the name of the county followed by the words: "County Juvenile Board."

(2) The Juvenile Board created in the foregoing section is established and constituted in each county wherein there are two District Courts, one of which is composed of one county only, the other of which is composed of two counties, and in such one-county Judicial District

there is located a city with a population of more than twenty-eight thousand (28,000) according to the last preceding Federal Census.

(3) As compensation for the added duties hereby imposed upon members of such Juvenile Board, each member thereof shall be compensated by an annual salary of not more than Eighteen Hundred (\$1800.00) Dollars to be fixed by the Commissioners Court, payable in twelve (12) monthly equal installments; and such compensation shall be in addition to all other compensations now provided for or allowed County and District Judges by law, and shall be paid out of the General Fund of the county. Added Acts 1950, 51st Leg., 1st C.S., p. 99, ch. 35, § 1.

Emergency. Effective March 17, 1950.

Sections 2 and 3 of the act of 1950 read as follows:

"Sec. 2. This Act shall be construed as being cumulative with the provisions of Article 5139, Revised Civil Statutes of Texas, 1925, as amended, and all laws and parts of laws in conflict herewith are hereby expressly repealed.

"Sec. 3. It is the intention of the Legislature to enact each section, paragraph, sentence, phrase and word of this bill, and if any section, paragraph, sentence, phrase or word hereof should be held to be unconstitutional, invalid, void or inoperative by a court of competent jurisdiction, it shall not impair, invalidate or void the remainder thereof."

#### 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 (1) juvenile officer may be appointed by the Commissioners Court, when in its opinion, such officer is needed who shall receive a compensation not to exceed Two Hundred Dollars (\$200) per month, and expenses not to exceed Two Hundred and Fifty Dollars (\$250) per year, 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 (1) juvenile officer may be appointed by the Commissioners Court, when in its opinion the services of such officer are 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 its 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 Twenty-five Million Dollars (\$25,000,000), one (1) juvenile officer may be appointed by the Commissioners Court, when in its judgment such officer is needed, who shall receive a salary not to exceed Two Hundred Dollars (\$200) per month. Provided further, that in counties having a population of not less than nineteen thousand (19,000) and not more than fifty thousand (50,000) as shown by the 1940 Federal Census and which have an assessed valuation of taxable property of not less than twenty-five Million Dollars (\$25,000,000) one (1) juvenile officer may be appointed by the Commissioners Court, whose salary may not exceed Three Hundred Dollars (\$300) per month and expenses not to exceed Six Hundred Dollars (\$600) per year.

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 officers 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 perform-

ance 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 1949, 51st Leg., p. 447, ch. 241, § 1.

Emergency. Effective May 21, 1949.

#### Art. 5142a. Probation Officers—Counties of 350,000 population

##### Appointment and salary of Chief Probation Officer—Automobile— expenses—assistants

Section 1. Provided that in counties having a population of more than three hundred and fifty thousand (350,000) inhabitants according to the last preceding or any future Federal Census, regular or special, the County Juvenile Board shall appoint a Chief Probation Officer for a term of two (2) years at a salary fixed by the said Juvenile Board and approved by the Commissioners Court, to be paid monthly by the county. The Commissioners Court is authorized to furnish such Chief Probation Officer and Assistant Probation Officers automobiles to be used in the official work of the Probation Department, and provide for the maintenance and operation of same; or if the Commissioners Court does not furnish automobiles to the Chief Probation Officer and his assistants in the discharge of their duties, it shall allow such Chief Probation Officer and Assistant Probation Officers such reasonable amounts as may be necessary for the use and operation of their personally owned automobiles. The Commissioners Court shall allow such Probation Officers such other expenses as it may think reasonable and proper which are incurred in the discharge of their duties, subject to the approval of the County Auditor, and such funds as are necessary to maintain and operate the office of the Probation Department. Such Chief Probation Officer shall select Assistant Probation Officers subject to approval of such Board; the number of such assistants to be determined by the Juvenile Board, subject to the approval of the Commissioners Court. The salaries of such assistants shall be set by the Juvenile Board, subject to the approval of the Commissioners Court. The head of a Department need not before have served for any prescribed period of time. As amended Acts 1949, 51st Leg., p. 47, ch. 27, § 1.

Emergency. Effective March 9, 1949.

##### Disbursement of payments in desertion cases

Sec. 3. All payments made under the order of the Court in such county in wife and child desertion cases for the support of wives and children shall be paid in to either the probation officer working in said court as an officer of the court, or the district clerk, as the Juvenile Board may direct, and said probation officer or district clerk, as the case may be, shall disburse said funds for the benefit of the wife and/or children of the defendant making such payment in such manner as shall appear to the Court to be for the best interest of said wife and/or children. As amended Acts 1949, 51st Leg., p. 530, ch. 292, § 1.

##### Bond of probation officer

Sec. 4. In all cases where the Juvenile Board designates the probation officer to receive said payments in wife and child desertion cases for the



support of wives and children, said probation officer shall make a surety bond in some solvent surety company authorized to make such bonds in Texas conditioned upon the faithful performance of the duties of his position and further conditioned upon his properly accounting for any moneys entrusted to him, said bond to be in such amount as may be fixed by the county auditor and subject to the approval of the county auditor. As amended Acts 1949, 51st Leg., p. 530, ch. 292, § 1.

#### Records of receipts and disbursements

Sec. 5. In all cases where the probation officer has been designated by the Juvenile Board to receive payments in wife and child desertion cases for the support of wives and children, said probation officer in such counties having at least eight (8) District Courts, at least two (2) of which are Criminal District Courts, and at least four (4) County Courts, at least two (2) of which are County Courts at Law and at least one (1) is a County Criminal Court, shall keep a complete record of all his investigations and of his receipts and disbursements of all moneys which shall be a public record open to the inspection of the public, and it shall be the duty of the county auditor to inspect and examine such records and audit such accounts quarterly, making due report of his findings and recommendations with respect thereto to the County Juvenile Board. As amended Acts 1949, 51st Leg., p. 530, ch. 292, § 1.

Emergency. Effective May 28, 1949.

Section 2 of the Act of 1949, read as follows: "If any section, clause, or part thereof of this Act shall be held invalid, the validity of the remainder shall not be affected thereby."

Section 3 of the act of 1949 repealed conflicting laws to the extent of the conflict only.

Compensation of judges in counties having eight or more courts, see also, art. 6819a—5.

### Art. 5142b. Juvenile officers in counties of 190,000 to 350,000

#### Application of law

Section 1. The provisions of this Act shall apply to all counties of the State of Texas having a population of not less than two hundred and twenty-five thousand (225,000) inhabitants, nor more than three hundred and ninety thousand (390,000) inhabitants, according to the last preceding and any future Federal Census, general or special, and in which counties are located four (4) Civil District Courts and two (2) Criminal District Courts. As amended Acts 1949, 51st Leg., p. 110, ch. 66, § 1.

Emergency. Effective April 2, 1949.

*Amendment by Acts 1949, 51st Leg., p. 654, ch. 339, § 1, see § 1, post.*

#### Application of law

Section 1. The provisions of this Act shall apply to all counties of the State of Texas containing a population of not less than one hundred and ninety thousand (190,000) inhabitants, nor more than three hundred and fifty thousand (350,000) inhabitants, according to the last preceding or any future Federal Census, general or special. As amended Acts 1949, 51st Leg., p. 654, ch. 339, § 1.

Emergency. Effective June 8, 1949.

*Amendment by Acts 1949, 51st Leg., p. 110, ch. 66, § 1, see § 1, ante.*

#### 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 be not less than Three Thousand, Six Hundred

Dollars (\$3,600) per annum for the Chief Probation Officer, and not less than One Thousand, Eight Hundred Dollars (\$1,800) per annum for Assistants or Deputies. As amended Acts 1949, 51st Leg., p. 654, ch. 339 § 1.

**Supervision of institutions by Juvenile Board; superintendents**

Sec. 7. 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 Superintendents shall be fixed by the County Commissioners Court. Provided, however, that any such Superintendent may at any time, for good cause, be suspended or removed by the appointing authority. As amended Acts 1949, 51st Leg., p. 654, ch. 339, § 1.

**Compensation of Juvenile Board Members**

Sec. 15. The Judges of the several District and Criminal District Courts who are members of the Juvenile Board in such counties, on account of the additional duties imposed on them, are hereby allowed an additional compensation of Three Hundred and Twenty-five Dollars (\$325) per month; and the County Judge in such counties, on account of the additional duties imposed on him, is hereby allowed an additional compensation of Seventy-five Dollars (\$75) per month. The compensation herein provided for is to be paid by the Commissioners Court in such counties and is to be in addition to all other compensation now allowed by law to such officers. Provided, however, that in counties coming under the provisions of this Act, the members of the Juvenile Board shall not receive any compensation under or by virtue of Acts of 1917, Thirty-fifth Legislature, Chapter 16, page 27, (Article 5139), as amended. As amended Acts 1949, 51st Leg., p. 110, ch. 66, § 2.

Emergency. Effective April 2, 1949.

**Automobile or allowance; expenses**

Sec. 17. The Commissioners Court is authorized to furnish such Probation Officers automobiles to be used in the official work of the Probation Department, and provide for the maintenance and operation of same.

If the Commissioners Court does not furnish automobiles to the Probation Officers in the discharging of their duties, it shall allow such Probation Officers such reasonable amounts as may be necessary for the use and operation of their personally owned automobiles. The Commissioners Court shall allow such Probation Officers such other expenses as it may think reasonable and proper which are incurred in the discharging of their duties subject to the approval of the County Auditor and such funds as are necessary to maintain and operate the office of the Probation Department. Added Acts 1949, 51st Leg., p. 654, ch. 339, § 2.

Emergency. Effective June 8, 1949.

Section 3 of the act of 1949, 51st Leg., p. 110, ch. 66, read as follows: "All laws and parts of laws in conflict with this Act to the extent that they are inconsistent with or repugnant to the terms hereof, are hereby repealed."

Sections 3 and 4 of the act of 1949, 51st Leg., p. 654, ch. 339, read as follows:

"Sec. 3. If any section, clause, or part of this section is found to be unconstitu-

tional or invalid it is hereby declared to be the purpose and intention of the Legislature that such section shall not in any manner invalidate or impair the remaining portions of this Act.

"Sec. 4. It is further provided that all laws and parts of laws in conflict with the provisions of this Act be, and the same are hereby repealed to the extent of such conflicts only."

Art. 5142c. Juvenile Officers in Counties of one hundred and ninety thousand (190,000) to two hundred and twenty-four thousand (224,000)

**Application of act**

Section 1. The provisions of this Act shall apply to all counties of the State of Texas containing a population of not less than one hundred and ninety thousand (190,000) inhabitants, nor more than two hundred and twenty-four thousand (224,000) inhabitants, according to the last preceding or any future Federal Census, general or special.

**Composition of board**

Sec. 2. The Juvenile Board of such counties shall be composed of the Judges of the several District and Criminal District Courts, thereof, together with the County Judge thereof.

**Probation officers**

Sec. 3. There shall be one (1) Chief Probation Officer who shall be appointed by the Juvenile Board. Said Chief Probation Officer shall appoint Assistant Probation Officers, subject to confirmation by the Juvenile Board. The number of such Assistant Probation Officers shall be determined by the Juvenile Board subject to the approval of the Commissioners Court, provided such power of appointment and confirmation shall become effective immediately upon final passage of this Act, and the budget shall be amended, if necessary, to provide sufficient funds for the operation of this Act.

**Terms of office**

Sec. 4. The term of office of Chief Probation Officers and Assistant Probation Officers shall be for a period of two (2) years; provided, however, that the Juvenile Board may at any time, for good cause, suspend or remove any Juvenile Officer, whether Chief or Assistant.

**Compensation of probation officers; expenses**

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 or Chief Deputy, and not to exceed Two Hundred and Fifty Dollars (\$250) per month for one (1) Assistant or Deputy, and not to exceed Two Hundred Dollars (\$200) per month for all other Deputy Assistants. Provided further that the Commissioners Court of said County shall out of the General Fund provide funds for all necessary expenses needed to properly carry out the duties of the Juvenile Officer and his assistants, in such amounts as recommended by the Juvenile Board, subject to the approval of the Commissioners Court.

**Direction and control; rules and regulations**

Sec. 6. The Juvenile Board shall have direction and control over all Juvenile Officers and may make rules and regulations relating thereto.

**Places and institutions subject to control; 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 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 Superintendents shall be fixed by the County Commissioners Court.

**Records; visitation and reports**

Sec. 8. It shall be the duty of the Probation Officers to keep a record which will, at all times, show the names of all dependent or delinquent juveniles within their county, and the names and addresses of the person having custody of any such juveniles; and visitations by such officers shall be made at such reasonable times as may be directed by the Juvenile Board, and written report shall be made to the Juvenile Board showing such facts relating to the environment, treatment, education and welfare of such minors as shall be directed by the Juvenile Board.

**Transfer of custody**

Sec. 9. It shall be unlawful for any person or institution having the lawful custody of any such juveniles to deliver such juveniles to the custody of another person without an order of court of competent jurisdiction in said county sitting as a Juvenile Court authorizing same, and a copy of such order shall be transmitted to the Juvenile Officers of such county.

**Visitation; orders or regulations**

Sec. 10. It shall be the duty of the members of the Juvenile Board of said county to make visitations, at reasonable intervals, to the institutions in said county in which dependent or delinquent juveniles may be kept, maintained or educated; and a majority of said Juvenile Board may adopt any order or regulation pertaining to the welfare of such juveniles which may be found necessary or for the welfare of such juveniles, and it shall be the duty of all persons having such juveniles in charge to comply with such order or regulation. Any such order or regulation shall be entered of record by the Chief Probation Officer in a book kept for such purpose, and shall be open for public inspection, and copy of any such order or regulation certified by such Probation Officer shall be delivered to the Superintendent, or person in charge, or control of any such institution; and said Board may by order or regulation require of the Superintendent, or person in charge of such juveniles in said county reports giving said Board such information relating to such juveniles or such institutions as may be required by such Juvenile Board.

**Suspension or termination of employment**

Sec. 11. The Chief Probation Officer may at any time, with the approval of the Juvenile Board, for good cause shown, suspend, or entirely terminate the employment and service of any assistant after such assistant has been duly notified and afforded an opportunity to be heard by said Juvenile Board.

**Official bonds**

Sec. 12. The Juvenile Board shall have authority to require and approve a good and sufficient surety or personal bond for the faithful performance of duty of any Juvenile Officer or Superintendent of any of the institutions enumerated in this Act, in such sum as may be determined by said Board.

**Investigations; disbursements**

Sec. 13. The Juvenile Board, or any member thereof, may at any time require any Probation Officer to make investigation and report

the facts relating the welfare of any minor, or any child abandonment or desertion cases or proceedings, and may require any such officer to receive and disburse under orders of the Board for the benefit of any such minor any sums of money required to be paid into Court for the maintenance of such minor; and such officer shall enter all such receipts and disbursements in a well-bound book kept for such purpose in the Probation Office subject to public inspection, showing all such receipts and disbursements, and the same shall be audited by the County Auditor; and the bond required to be executed under the provisions of this Act shall be liable for the faithful performance of all such duties.

#### Assistant district attorneys

Sec. 14. The District Attorney and the Criminal District Attorney of all such counties coming under the provisions of this law, are hereby authorized and directed, to assign as Assistant District Attorney in his office for the special duty of representing the Juvenile Board and the Probation Officers in safeguarding and protecting the rights relating to the welfare of any minor or juvenile in child abandonment and desertion cases or proceedings.

#### Compensation of members of board

Sec. 15. The members composing said Juvenile Board in such counties, on account of the additional duties hereby imposed on them, are each hereby allowed an additional compensation of Seventy-five Dollars (\$75) per month to be paid by the Commissioners Court in such counties, and the same to be in addition to all other compensation now allowed by law to such officers.

#### Repeals; partial invalidity

Sec. 16. Any law or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict. If any clause, sentence, paragraph, or Section of this Act is declared invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Act shall, nevertheless, remain in full force and effect. Added Acts 1949, 51st Leg., p. 1197, ch. 608, § 1.

Emergency. Effective July 25, 1949.

### Art. 5142c—1. Juvenile officers in counties in two judicial districts of four counties

#### Appointment; salary; expenses

Section 1. In every county in this state, which comprises a part of two Judicial Districts, each of which Districts consists of four and the same four counties, which four counties have a combined population of not less than one hundred sixteen thousand (116,000) according to the last preceding Federal Census, the District Judges of such two Judicial Districts shall appoint a Juvenile Officer for a term of two years at a salary not to exceed Seven Hundred Fifty (\$750.00) Dollars per annum per county, to be fixed by the District Judges, subject to the approval of the Commissioners Court of each respective county, to be paid in equal monthly installments by such counties out of the General Fund thereof. Such Juvenile Officers may be allowed such expenses as the Commissioners Court of such counties may think reasonable and proper.

#### Compensation of district judges

Sec. 2. For the additional services and duties required by this Act, District Judges in any county coming under the terms of this Act shall

receive in addition to all other compensation now provided by law, including all other compensation provided for service on Juvenile Boards, the sum of Seventy-five (\$75.00) Dollars per month out of the General Fund of such county.

**Records, investigations and reports**

Sec. 3. Such Juvenile Officer in such counties shall keep a record of all wife and child desertion cases wherein criminal charges are pending in said county, and shall immediately investigate the facts in each case and the defendant's ability to support his wife and/or children, and shall upon complaint that any payment for the support of the defendant's wife and/or children, has not been made as provided by order of the court, make investigation into the reasons why such payment is not being made; and shall make reports of all such matters, immediately upon the making of such investigation, to the District Attorney, the County Attorney, and Judge of the court in which such case is pending.

**Payments for support of wife and children**

Sec. 4. All payments made under the order of the court in such county, for wife and child desertion cases, for the support of wives and children, shall be paid to said Juvenile Officer working in said court as an officer of the court, and said Juvenile Officer shall disburse said funds for the benefit of the wife and/or children of the defendant, making such payment in such manner as shall appear to the court to be for the best interest of said wife and/or children.

**Bond of juvenile officer**

Sec. 5. Each such Juvenile Officer shall make a surety bond in some solvent surety company authorized to make such bonds in Texas, conditioned upon the faithful performance of the duties of his position and further conditioned upon his properly accounting for any moneys entrusted to him; said bond to be in such amount as may be fixed by the County Auditor and subject to the approval of the County Auditor.

**Record of investigations, receipts and disbursements; audit of accounts**

Sec. 6. Such Juvenile Officer, in each county which comes under the terms of this Act, shall keep a complete record of all his investigations and of his receipts and disbursements of all moneys, which shall be a public record open to the inspection of the public; and it shall be the duty of the County Auditor to inspect and examine such records and audit such accounts quarterly, making due report of his findings and recommendations with respect thereto to the County Juvenile Board.

**Divorce suits; investigations and reports; evidence**

Sec. 7. In all suits for divorce, in counties which come under the terms of this Act, where it appears from the petition or otherwise that the parties to such suit have a child or children under sixteen years of age, it shall be the duty of such Juvenile Officer, subject to the discretion of the court, to make a complete and thorough examination into the merits of the claim for divorce and to report his findings to the court in connection therewith, and to make a thorough and complete investigation as to the necessities of the child or children and of the disposition that should be made of such child or children, and to make report thereof to the court prior to the trial of said case, and if desired by the court, to produce such evidence as may have been developed in connection with such matters in the trial of such case.

**Judge's compensation not fees of office**

Sec. 8. It is expressly provided hereby that the compensation allowed District Judges shall not be counted as fees of office.

**Partial invalidity**

Sec. 9. If it shall be held that any part or parts of this Act are unconstitutional, then the remainder shall remain in full force and effect as law, independently and despite such holdings. Acts 1949, 51st Leg., p. 61, ch. 32.

Emergency. Effective March 10, 1949.

**Title of Act:**

An Act providing for the appointment of Juvenile Officers in counties which comprise a part of two Judicial Districts, each of which Districts consist of four and the same four counties, which four counties have a combined population of not less than one hundred sixteen thousand (116,000) according to the last preceding Federal Census; providing for a salary for such Juvenile Officers and the manner of pay-

ment thereof; providing additional compensation for the District Judges in said counties; designating the duties of such County Juvenile Officers; providing that such Juvenile Officers shall make surety fidelity bond; providing that a record shall be kept of the receipts and disbursements of such County Juvenile Officers; providing that the County Auditor shall inspect and examine such records; and declaring an emergency. Acts 1949, 51st Leg., p. 61, ch. 32.

**Art. 5142d. Salaries of Juvenile or Probation Officers; how fixed; automobile or allowance**

The Commissioners Courts of all counties in which Juvenile Officers or Probation Officers, or their assistants, are employed under existing laws of this State, shall fix the salaries to be paid such Juvenile Officers or Probation Officers and their assistants, and provide for their expenses, without limitation. Provided, that in counties where there is a Juvenile Board, said Board shall recommend the salary to be paid to such Juvenile Officer or Probation Officer and their assistants, which salary shall be approved by the Commissioners Court; and provided, further, that no Juvenile Officer or Probation Officer, or their assistants, shall be paid a salary less than that now provided by existing laws. The Commissioners Court is authorized in its discretion to furnish such Juvenile Officers or Probation Officers an automobile and provide an allowance for the expense of operating the same. The provisions of this Act shall not apply to those counties whose population exceeds one hundred and ninety thousand (190,000) according to the last or any future Federal Census. Acts 1949, 51st Leg., p. 653, ch. 338, § 1.

Emergency. Effective June 8, 1949.

Section 2 of the Act of 1949 repealed all conflicting laws and parts of laws.

**Art. 5143c. State Youth Development Council****Purpose**

Section 1. The purpose of this Act is to develop our State's most precious resource, its children and youth, by creating a Youth Development Council, first, to co-ordinate the State's departments and facilities in helping all communities develop and strengthen all child services, preventing delinquency and other types of social maladjustment by developing in all children the spiritual, mental, and physical resources necessary for complete citizenship responsibility and participation; and, secondly to administer the State's correctional facilities by providing a program of constructive training aimed at the rehabilitation and successful re-establishment in society of delinquent children.

**Construction of the Act**

Sec. 2. This Act shall be liberally construed to accomplish the purpose herein sought.

**Definitions**

Sec. 3. As used in this Act:

(a) "Council" means the State Youth Development Council.

(b) "Chairman" means the Chairman of the State Youth Development Council.

(c) "Executive Committee" means the Executive Secretary of the Youth Development Council and two (2) members of the Council; one (1) of such members shall be appointed by the Council and the other shall be appointed by the Governor.

(d) "Secretary" means the Executive Secretary of the State Youth Development Council.

(e) "Child" or "Youth" means any resident of this State under twenty-one (21) years of age.

(f) "Delinquent Child" means any male or female so adjudged under provisions of Sections 3 and 13, of Chapter 204 of the General Laws of the Regular Session of the Forty-eighth Legislature, 1943, (Sections 3 and 13, Article 2338—1, of Vernon's 1948 Statutes).

(g) "Court" means the Juvenile Court.

**Council Established**

Sec. 4. (a) There is hereby created a State Youth Development Council to consist of fourteen (14) members selected as follows: six (6) members, who are influential citizens in their respective communities and recognized for their interest in the welfare of youth, shall be appointed by the Governor with the consent of the Senate, provided that citizens of Texas now serving as members of Boards or Commissions of the State may be eligible for appointment to this Council, service on said Council to be considered as an extension of their other official duties; and eight (8) State officers—the Chairman of the State Board of Control, the Executive Director of the State Department of Public Welfare, the Commissioner of Education, the Executive Director of State Hospitals and Special Schools, the State Health Officer, the Director of the Texas Department of Public Safety, the Executive Secretary of the State Parks Board, and the Chairman of the Texas Employment Commission, shall serve ex officio, the service by such State officials on the Council to be considered as additional duties of their present offices, and not as a separate office or employment.

(b) The duties of the six (6) appointed members first mentioned, in addition to serving as regular members of the Council, will be to provide the essential liaison with the public to enlist its support and participation, to channel the public's suggestions to the Council, and to keep the Council's sights trained on the major needs and problems of Texas youth. The term of office of the six (6) appointed members shall be six (6) years except that initially two (2) members shall be appointed for a six-year term, two (2) members for a four-year term, and two (2) members for a two-year term. Said members shall be eligible for reappointment. A vacancy for an unexpired term shall be filled by the Governor with the consent of the Senate. The lay members shall each receive a per diem of Ten Dollars (\$10) for not exceeding sixty (60) days for any fiscal year.

(c) Two (2) persons shall be employed by the Executive Committee subject to the approval of the Council to serve at the pleasure of the



Council, and shall perform such duties as shall be designated by the Council. Said employees shall devote full time to the work of the Council. Said employees shall receive an annual salary not to exceed Seven Thousand Dollars (\$7,000).

(d) All members of the Council shall receive as expenses that sum provided by Statute for other State employees.

(e) The Council shall hold meetings at the call of its Chairman or Secretary or at the request of any three (3) members at such times and places as its Chairman may determine, but it shall hold not less than six (6) meetings annually.

(f) The State Youth Development Council shall have its office wherever the Council chooses, in such building as shall be designated and approved by the State Board of Control.

#### Organization of the Council

Sec. 5. (a) A member of the Council shall be designated by the Governor as its Chairman and he shall preside over all meetings of said Council. The Executive Director of the State Department of Public Welfare shall be Executive Secretary of the Council and shall be the executive and administrative officer of the Council. The Executive Secretary and two (2) other members of the Council appointed by that body shall constitute the Executive Committee of the Council, one (1) of which shall be a member of the Council appointed by the Governor.

(b) The Council shall be responsible for the adoption of all policies and may make all rules appropriate to the proper accomplishment of its functions.

(c) The powers and duties of the Council in respect to placement for training and treatment, transfer, release under supervision, and discharge of delinquent children committed to the Council shall be exercised and performed by the Executive Committee and may be delegated to the Executive Secretary. The Executive Secretary may delegate the powers and duties vested in him by this Subsection to any member or employee of the Council, or State employee designated by the Council.

(d) All powers, duties and functions, other than those specified in Subsection (c), granted to or imposed on the Council by any provision of law may be exercised and performed by the Secretary or by any member or employee designated or assigned by the Council or by the Secretary.

(e) For the exercise of other functions than those specified in Subsection (c), eight (8) members of the Council shall constitute a quorum.

#### Major Duties and Functions of the Council

Sec. 6. The Council shall:

(a) Carry on a continuing study of the needs of all children in this State and seek to focus public attention on such major needs.

(b) Make studies and provide programs and information to strengthen the family in meeting its responsibility as the fundamental school for integrity and for democratic life.

(c) Inquire into and make recommendations to the appropriate agencies, public or private, on any matter affecting the care, welfare, or behavior of children or youth.

(d) Develop constructive programs to provide, strengthen, and coordinate all essential services to all children throughout the State; and to that end co-operate with existing agencies and encourage the establishment of new agencies, both local and Statewide, having as their object service to youth.

(e) Assist local authorities of any county or municipality, when so requested by the governing body thereof, in surveying the needs of their youth and the extent to which these are not being met, and in developing, strengthening, and co-ordinating educational, welfare, health, recreational, and law enforcement programs which have as their object service to youth.

(f) Administer the diagnostic treatment and training, and supervisory facilities and services of the State for delinquent children committed to the State. Manage and direct State Training School facilities and provide for the co-ordination and combination of such facilities, if deemed advisable by the Council, and for the creation of new facilities within the total appropriations provided by the Legislature.

(g) Before each convening date of the Regular Session of the Legislature, make a report to the Governor and Legislature of its activities and accomplishments and of its findings as to the major needs of youth in this State. The report shall include specific recommendations for legislation, planned and drafted as part of an integrated, unified, and consistent program to serve the best interests of youth; and recommendations for the repeal of any conflicting, obsolete, or otherwise undesirable legislation affecting youth.

#### **Co-operation by Other Departments**

Sec. 7. To effectuate the purpose of this Act and to make maximum use of existing facilities and personnel, it shall be the duty of all departments and agencies of the State government and of all officers and employees of the State, when requested by the Council, to co-operate with it in all activities consistent with their proper function.

#### **Transfer of Training Schools and Other Facilities**

Sec. 8. The Council shall succeed to and be vested with all rights, powers, duties, facilities, personnel, records, and appropriations for the care and custody of delinquent children now held by the Board of Control, including the Gatesville State School for Boys, the Gainesville State School for Girls, and the Brady State School for Negro Girls.

#### **Employees**

Sec. 9. In addition to those employees transferred to the Council by Section 8 of this Act, the Council may employ at compensation provided by the Legislature and within the limits of the amounts appropriated therefor, such medical, psychiatric, and other expert personnel, field representatives, supervisory, institutional, clerical and other employees as are necessary to discharge its duties. The Council shall have the power to remove any official or employee for cause, and the decision of the Council in such removals shall be final. The superintendents of the training schools shall have the right to dismiss training school employees with the approval of the Executive Committee. Any unexpended balance remaining in any item of appropriation made by the Legislature for the activity of the Council may, with the approval of the Legislative Audit Committee, be transferred and used for the purpose mentioned in any other item in this measure or in the appropriations made for this Council.

#### **Power to Accept Gifts**

Sec. 10. The Council may accept gifts, grants, or donations of money or of property from private sources to effectuate the purpose of this Act. Any and all funds so donated shall be placed in the State Treasury in a special fund called the Youth Development Fund and expended in the same manner as other State moneys are expended, upon

warrants drawn by the Comptroller upon the order of the Council. Any of said moneys are hereby appropriated for the purpose of carrying out this Act.

**Referrals from Federal Court**

Sec. 11. The Council shall have the power to enter into agreements with the Federal government to accept children from the Federal Court for compensation upon which they agree.

**Commitments by Juvenile Courts**

Sec. 12. When any child is adjudged delinquent under provision of Section 13 of Chapter 204 of the General Laws of the Regular Session of the Forty-eighth Legislature, 1943, (Sec. 13, Article 2338—1, of Vernon's 1948 Statutes), and the Court does not release such child unconditionally, or place him on probation or in a suitable public or private institution or agency other than a State Training School, the Court shall commit him to the Council, but may suspend the execution of the order of such commitment.

**Preliminary Disposition by Court**

Sec. 13. (a) When the Court commits a child to the Council, it may order him conveyed forthwith to some place of detention approved, or established, or designated by the Council, or may direct that he be left at liberty until otherwise ordered by the Council under such conditions as will insure his submission to any orders of the Council.

(b) The Court shall assign an officer or other suitable person to convey a child to any facility designated by the Council, provided that the person assigned to convey a girl must be a woman. The cost of conveying any child committed to the Council shall be paid by the county from which said child is committed, provided that no compensation shall be allowed beyond the actual and necessary expenses of the party conveying and the child conveyed.

**Effect of Appeal from Adjudication or Commitment**

Sec. 14. The right of a child who has been adjudged delinquent to appeal from the adjudication or from the order of commitment shall not be affected by anything in this Act.

**Notification and Duty to Furnish Information**

Sec. 15. When a Court commits a child to the Council, such Court shall at once forward to the Council a certified copy of the order of commitment, and the Court, the probation officer, the prosecuting and police authorities, the school authorities and other public officials shall make available to the Council all pertinent information in their possession in respect to the case. The reports required by this Section shall, if the Council so requests, be made upon forms furnished by the Council or according to an outline furnished by it.

**Probation Service to Juvenile Courts**

Sec. 16. The Juvenile Court of any county not having a probation officer may request the Council, with its consent, to make an investigation and report to the Court respecting any child against whom an information or petition has been filed charging delinquency; and such Court may also, with the consent of the Council, place any child whom it has adjudged delinquent on probation under the supervision of the Council on such terms and conditions as the Court may prescribe.

**Diagnosis of Committed Children**

Sec. 17. (a) When a child has been committed to the Council, it shall, under rules established by it, forthwith examine and study him and investigate all pertinent circumstances of his life and behavior.

(b) The Council shall make periodic re-examination of all children within its control, except those on release under supervision or in foster homes. These examinations may be made as frequently as the Council considers desirable, and shall be made with respect to every child at intervals not exceeding one (1) year.

(c) The Council shall keep written records of all examinations and of the conclusions based thereon, and of all orders concerning the disposition or treatment of every child subject to its control. All records maintained by such Council shall not be public records; but shall only be available upon the order of a District Court.

(d) Failure of the Council to examine a child committed to it, or to re-examine him within one (1) year of a previous examination, shall not of itself entitle the child to discharge from the control of the Council, but shall entitle him to petition the committing Court for an order of discharge, and the Court shall discharge him unless the Council upon due notice satisfies the Court of the necessity for further control.

**Determination of Treatment**

Sec. 18. When a child has been committed to the Council, it may:

(a) Permit him his liberty under supervision and upon such conditions as it believes conducive to acceptable behavior; or

(b) Order his confinement under such conditions as it believes best designed for his welfare and the interests of the public; or

(c) Order reconfinement or renewed release as often as conditions indicate to be desirable; or

(d) Revoke or modify any order of the Council affecting a child, except an order of final discharge, as often as conditions indicate to be desirable; or

(e) Discharge him from control when it is satisfied that such discharge will best serve his welfare and the protection of the public.

**Type of Treatment Permitted**

Sec. 19. As a means of correcting the socially harmful tendencies of a child committed to it, the Council may:

(a) Require participation by him in moral, academic, vocational, physical, and correctional training and activities;

(b) Require such modes of life and conduct as seem best adapted to fit him for return to full liberty without danger to the public;

(c) Provide such medical or psychiatric treatment as is necessary;

(d) Place boys who are physically fit in parks-maintenance camps or forestry camps or boys' ranches owned by the State or by the United States and require boys so housed to perform suitable conservation and maintenance work, provided that the boys shall not be exploited and that the dominant purpose of such activities shall be to benefit and rehabilitate the boys rather than to make the camps self-sustaining.

**State Schools and Other Facilities**

Sec. 20. The Council shall have the management, government and care of the Gatesville State School for Boys, the Gainesville State School for Girls, the Brady State School for Negro Girls, and of all other facilities hereafter established by the State for the custody, diagnosis, care and training of delinquent children committed to the State.

**Appointment of Superintendents and Employees**

Sec. 21. The Council shall, from time to time, appoint a superintendent for each of said schools and institutions, and upon the recommendation of the superintendent, shall appoint all other officials, chaplains, teachers, and employees required at said schools and institutions and shall prescribe their duties. The superintendent of any school or other facility for the care of girls exclusively shall be a woman. The superintendent, with the consent of the Executive Committee, may discharge any employee for cause.

The salaries, compensation, and emoluments of the superintendents and subordinate officials, teachers, and employees shall be fixed as provided by the Legislature.

**Rules and Purposes of Schools and Other Facilities**

Sec. 22. The Council shall establish rules and regulations for the government of each school and other facilities and shall see that its affairs are conducted according to law and to such rules and regulations; but the purpose thereof and of all education, work, training, discipline, recreation, and other activities carried on in the schools and other facilities shall be to restore and build up the self-respect and self-reliance of the children and youth lodged therein and to qualify them for good citizenship and honorable employment.

**The Superintendent**

Sec. 23. The superintendent shall be a person of high moral character, education and training, and shall have the ability to develop and recommend an aggressive program for youth rehabilitation. He shall take the official oath and shall give a sufficient bond in the sum of Ten Thousand Dollars (\$10,000) payable to the Governor or his successors in office, conditioned for the faithful performance of the duties of his office. Such bond shall be approved by the Secretary of State.

**Powers and Duties of the Superintendent**

Sec. 24. The superintendent of each school or other facility shall:

(a) Have general charge of and be responsible for the welfare and custody of the children lodged therein, and for carrying out the rehabilitative program prescribed by the Council. He shall be a constant resident at the school or facility, and, under the direction of the Council, shall seek to establish relationships and to organize a way of life that will meet the spiritual, moral, physical, emotional, intellectual and social needs of the children under his care as those needs would be met in an adequate home;

(b) See that the buildings and premises are kept in good sanitary order;

(c) Cause to be kept the books of the school or facility fully exhibiting all moneys received and disbursed, the source from which received and purposes for which same is expended. All supplies for the school or facility shall be purchased in the same manner as for other similar institutions. Said books shall give a full record of all products produced, whether sold or consumed, and shall at all times be open for the inspection of the Council, State Auditor, or the Governor.

**Religious Training**

Sec. 25. The Council shall make provision for the religious and spiritual training of children in its custody and shall require all children

in its diagnostic treatment or training facilities who are physically able to attend at least one (1) religious service of his own choice on each Sunday.

**Power to Make Use of Existing Institutions and Agencies**

Sec. 26. (a) For the purpose of carrying out its duties, the Council is authorized to make use of law enforcement, detention, supervisory, medical, educational, correctional, segregative, and other facilities, institutions and agencies, within the State. The Council may enter into agreements with the appropriate private or public officials for separate care and special treatment in existing institutions of persons subject to the control of the Council.

(b) Nothing herein shall be construed as giving the Council control over existing facilities, institutions or agencies other than those listed in Section 8, or as requiring such facilities, institutions or agencies to serve the Council inconsistently with their functions, or with the authority of their offices, or with the laws and regulations governing their activities; or as giving the Council power to make use of any private institution or agency without its consent; or to pay a private institution or agency for services which a public institution or agency is willing and able to perform.

(c) Public institutions and agencies are hereby required to accept and care for delinquent children sent to them by the Council in the same manner as they would be required to do had such children been committed thereto by a Juvenile Court.

(d) The Council is hereby given the right and shall be required periodically to inspect all public and all private institutions and agencies whose facilities it is using. Every institution and agency, whether public or private, is required to afford the Council reasonable opportunity to examine or consult with children committed to the Council who are for the time being in the custody of the institution or agency.

(e) Placement of a child by the Council in any institution or agency not operated by the Council, or the release of such child from such an institution or agency, shall not terminate the control of the Council over such child. No child placed in such institution or under such an agency may be released by the institution or agency without the approval of the Council.

**Power to Establish Additional Facilities**

Sec. 27. When funds are available for the purpose, the Council may:

(a) Establish and operate places for detention and diagnosis of all children committed to it;

(b) Establish and operate additional treatment and training facilities, including forestry or parks-maintenance camps and boys' ranches, necessary to classify and segregate and handle juvenile delinquents of different ages, habits and mental and physical condition according to their needs;

(c) Establish facilities to aid children given conditional release or discharged by the Council to find homes and employment and to lead socially acceptable lives.

**Establishment of Camps and Payment of Wages**

Sec. 28. The Council may establish forestry or parks-maintenance camps independently or in co-operation with the State Parks Board or with Federal departments and officials in charge of national forests and parks within this State. To this end, the Council may enter into contracts with Federal and State departments and officials. The Council may, in co-operation with such Federal and State departments or otherwise, provide for the payment of wages to the boys for the work they

do while housed in such forestry or parks-maintenance camps, the sums earned to be paid in reparation, or to the parents or dependents of the boy, or to the boy in such manner and in such proportions as the Council directs.

#### **Release under Supervision**

Sec. 29. The Council may release under supervision at any time, and may place children in its custody in their usual homes or in any situation or family that it has approved. The Council may, subject to appropriation, employ agents for investigating places and for visiting and supervising children on placement and may provide for the maintenance, in whole or in part, of any child so placed in charge of any person. The Council may, at any time until the expiration of the period of commitment, resume the care and custody of any child released under supervision.

#### **Clothing, Money and Transportation furnished on release**

Sec. 30. (a) The Council shall insure that each child it releases under supervision has suitable clothing, transportation to his home, or to the county in which a suitable home or employment has been found for him, and such an amount of money as the rules of the Council authorize.

(b) The expenditures for clothing and for transportation and the payment of money may be made from funds for support and maintenance appropriated to the Council or to the institution from which such child was released, or from local funds, or from any appropriation specifically made for such purposes by the Legislature of the State of Texas.

#### **Escape and Apprehension**

Sec. 31. A boy or girl committed to the Council and placed by it in any institution or facility, who has escaped therefrom, or who has been released under supervision and broken the conditions thereof, may be arrested without a warrant by a sheriff, deputy sheriff, constable, police officer, or field officer employed or designated by the Council, and may be kept in custody in a suitable place and there detained until such boy or girl may be returned to the custody of the Council.

#### **Transfer of Mentally Ill, Feeble-Minded and Epileptics**

Sec. 32. Whenever the Council finds that any child committed to it is mentally ill, feeble-minded or an epileptic, the Executive Committee shall have the power to transfer children to any State institution for ninety (90) days observation or emergency treatment, and may make application to the proper court for a new commitment to the appropriate agency in accordance with law.

#### **Termination of Control**

Sec. 33. Every child committed to the Council as a delinquent, if not already discharged, shall be discharged or referred back to the court when he reaches his twenty-first birthday.

#### **Civil Rights**

Sec. 34. Commitment of a delinquent child to the custody of the Council shall not operate to disqualify such child in any future examination, appointment or application for public service under the government either of the State or of any political subdivision thereof.

#### **Use of Records**

Sec. 35. The Records of commitment to the Council shall be withheld from public inspection except with the consent of the Council, but such records concerning any child shall be open at all reasonable times

to the inspection of the child, his or her parent or parents, guardian or attorney, or any of them. A commitment to the Council shall not be received in evidence or used in any way in any proceedings in any court except in subsequent proceedings for delinquency against the same child, and except in imposing sentence in any criminal proceedings against the same person.

#### Evaluation and Improvement of Treatment Methods

Sec. 36. The Council shall conduct continuing inquiry into the effectiveness of the treatment methods it employs in seeking the reformation of delinquent children. To this end the Council shall maintain a record of arrests and commitments of its wards subsequent to their discharge from the jurisdiction of the Council and shall tabulate, analyze, and publish biennially these data so that they may be used to evaluate the relative merits of methods of treatment. The Council shall cooperate with the Department of Public Welfare in the collection of statistics and information regarding juvenile delinquency, arrests made, complaints, informations, and petitions filed, and the disposition made thereof, and other information useful in determining the amount and causes of juvenile delinquency in this State.

#### Assisting Escape

Sec. 37. Whoever shall knowingly aid or assist any child in the custody of the Council to escape or to attempt to escape shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or be imprisoned in jail not less than thirty (30) nor more than sixty (60) days, or both.

#### Biennial Budget

Sec. 38. The Secretary shall prepare and submit to the Council, for its approval, a biennial budget of all funds necessary to be appropriated by the Legislature for the Council for the purposes of this Act. The budget so prepared shall be submitted to and filed with the Board of Control by the Council in the form and manner and within the time prescribed by law.

#### Constitutionality

Sec. 41. If any Section, subdivision or clause of this Act shall be held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Act. Acts 1949, 51st Leg., p. 988, ch. 538.

For effective date see § 43.

Sections 39, 39a, and 39b of the Act of 1949 made appropriations, section 39c related to the expenditure thereof, section 40 transferred existing appropriations, section 40a regulated the expenditure thereof.

Sec. 42. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only.

Section 43 provided that for the purpose of the appointment of the six (6) lay members of the Council and of the organization of the Council this Act shall take effect on its passage; for the purpose of the transfer of the State Training Schools to the Council, and all other purposes, this Act shall take effect within one hundred and twenty (120) days of passage; provided that the Council shall have until May first,

1950, to assemble the technical staff and provide facilities necessary to make the diagnosis of each child committed to it as required by Section 16.

#### Title of Act:

An Act creating a State Youth Development Council for the protection, care, and training of children and youth of the State, and, among other things, defining its powers, duties, functions, and relations with other agencies, officers, and courts and their corresponding duties and powers; providing for certain criminal offenses related to the Act; providing an appropriation; containing a severability provision as to validity; repealing certain Statutes; fixing its effective date; and declaring an emergency. Acts 1949, 51st Leg., p. 988, ch. 538.



## TITLE 83—LABOR

## CHAPTER THIRTEEN—EMPLOYMENT AGENTS

Art.

5221a—5. Labor Agency Law [New].

5221a—6. Private Employment Agency  
Law [New].

Art. 5221a—4 Repealed. Acts 1949, 51st Leg., p. 434, ch. 234, § 15.  
Eff. May 20, 1949

Art. 5221a—5. Labor Agency Law

**Definitions as used in the Act.**

Section 1. (a) The term "person" means an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver.

(b) "Fee" means anything of value including money or other valuable consideration or services or the promise of any of the foregoing received by a Labor Agent or Agency from or on behalf of any person seeking employment, or employers seeking employees, in payment for any service, either directly or indirectly.

(c) "Employer" means any person employing or seeking to employ any employee.

(d) "Employee" means any person performing or seeking to perform work or service of any kind for compensation.

(e) "Labor Agent" means any person in this State who, for a fee, offers or attempts to procure, or procures employment for employees, or without a fee offers or attempts to procure, or procures employment for common or agricultural workers; or any person who for a fee attempts to procure, or procures employees for an employer, or without a fee offers or attempts to procure common or agricultural workers for employers, or any person, regardless whether a fee is received or due, offers or attempts to supply or supplies the services of common or agricultural workers to any person.

(f) "Commissioner" shall mean the Commissioner of Bureau of Labor Statistics.

(g) "Deputy or Inspector" shall mean any person who is duly authorized by the Commissioner to act in that capacity.

**Exceptions.**

Sec. 2. The provisions of this Act shall not apply to persons who charge a fee of not more than Two Dollars (\$2) for registration only for procuring employment for school teachers; provisions of this Act shall not apply to any employment agency established and operated by this State, the United States Government, or any municipal government of this State; the provisions of this Act shall not apply to any person who may operate a labor bureau or employment office in conjunction with his own business for the sole and exclusive purpose of employing help for his own use within this State, nor to any common carrier operating in this State who may operate an employment office in conjunction with his own business for the exclusive purpose of employing help for his own use within or without this State, provided, that no fee or other charge or reduction is exacted from the salary or wages of the worker for employment given. If a fee or charge of any kind, either directly or indirectly, is ex-

acted of the worker, then said employer is deemed an employment or labor agent and is subject to the provisions of this Act. The provisions of this Act shall not apply to farmers or stock raisers acting jointly or severally in securing laborers for their own use in this State where no fee is charged or collected, either directly or indirectly, for employment given; the provisions of this Act shall not apply to any person, corporation, or charitable association chartered under the laws of Texas for the purpose of conducting a free employment bureau or agency; nor to any veterans' organization or labor union; nor to any nurses' organizations operated not for profit, to be conducted by recognized professional registered nurses for the enrollment of its professional members only for the purpose of providing professional service to the public.

#### Application and Bond.

Sec. 3. Application and Bond for a Labor Agency license shall be executed on blank forms prescribed and furnished by the Commissioner. Application for license to act as a Labor Agent may be made in person or by mail to the Commissioner upon blank application form which shall be verified by the applicant. Such application shall also be accompanied by affidavits of at least five (5) creditable citizens who have resided in the county in which said applicant resides for at least three (3) years prior thereto, to the effect that applicant or applicants are persons of good moral character.

Such application shall be examined by the Commissioner, if he finds that the same complies with the law and that the applicant is entitled to a license, then he shall issue a license to the applicant for each county for which application is made, and shall deliver such license to the applicant upon the payment of a license fee of One Hundred and Fifty Dollars (\$150) for each county in which the labor agent intends to operate. Each person making application for a labor agency license, and before such license is issued, shall make and file with the Commissioner good and sufficient bond executed by the applicant with good and sufficient surety in the penal sum of Five Thousand Dollars (\$5,000), payable to the State of Texas, for each county in which the agent intends to operate; said bond shall be conditioned that the obligor will not violate any of the duties, terms, conditions and requirements of this Act, and that the agent will not make any false representation or statement to any person soliciting any assistance from him for employees or employment. Each license issued by the Commissioner shall be good for a period of one (1) year from the date of issuance.

#### Fees.

Sec. 3A. Where a fee is charged for obtaining employment such fee in no event shall exceed the sum of Three Dollars (\$3), which may be collected from the applicant only after employment has been obtained and accepted by the applicant.

#### Occupation Tax.

Sec. 4. In addition to the license fee and bond required in Section 3 of this Act, every labor agent hiring, enticing, or soliciting common or agricultural workers in this State to be employed beyond the limits of this State, shall pay an annual State occupation tax of Six Hundred Dollars (\$600), and in each county where said labor agent operates, an annual occupation tax on a population basis, according to the last preceding Federal Census as follows:

In counties under one hundred thousand (100,000) population, the sum of One Hundred Dollars (\$100);

In counties having a population from one hundred thousand (100,000) to two hundred thousand (200,000) inclusive, the sum of Two Hundred Dollars (\$200);

And in counties over two hundred thousand (200,000) population, the sum of Three Hundred Dollars (\$300).

This tax shall be paid to the Commissioner at the time such license or licenses are issued, and shall be forwarded by him to the proper county tax collection agencies. Such tax shall be good for the same period of time and run concurrent with the labor agency license. No other license fee or tax, whether general or local than as herein provided, shall be assessed against or levied upon any labor agency licensed under this Act.

#### Cancellation of License.

Sec. 5. The Commissioner shall have the authority, and it shall be his duty, to cancel the license of any employment agent when it shall appear to his satisfaction, upon hearing, that such agent has been convicted in a State or Federal Court of an offense which under the laws of this State is a felony, or for any offense involving moral turpitude, or that the agent had obtained his license illegally or fraudulently or was guilty of fraud, false swearing, or deception in securing his license, or has violated any provision of this Act.

The Commissioner shall not cancel the license of any agent until complaint in writing, made by a credible person, shall be filed with him, specifying in general terms the grounds of the proposed cancellation, and a full and fair hearing given to him thereon. Upon the filing of such complaint, the Commissioner shall fix a time and place, reasonably accessible to the agent complained against for the hearing of said complaint. The Commissioner shall notify the agent so complained against of the time and place fixed for said hearing by a registered letter addressed to him at his post-office address as the same appears upon his application for license, accompanied by an exact copy of the complaint against him; and mailing of such notice and copy shall be sufficient and conclusive evidence of proper service of the procedure upon the agent so complained against. The agent so complained against shall have at least ten (10) days after the date said notice is mailed, exclusive of the day of mailing and the day of hearing, before hearing upon said complaint shall be had, and shall have the right to file answer, introduce evidence and to be heard both in person and by counsel. The Commissioner shall have the power to summon and compel the attendance of witnesses before him to testify in relation to any such complaint, and may require the production of any book, paper or document deemed pertinent thereto. Said Commissioner shall also have the power to provide for the taking of depositions of witnesses and evidence may be heard either from witnesses present testifying orally, or by deposition taken under such rules, and in such fair and impartial manner as the Commissioner may prescribe. Said hearing shall be had before the Commissioner and shall be conducted in a fair and orderly manner, and in accordance with rules of procedure to be adopted by the Commissioner.

At the conclusion of the hearing the Commissioner shall enter his findings and judgment in writing and the same shall be recorded by him in a permanent record to be kept by him, and a copy thereof furnished to the agent complained against. Any agent whose license shall be cancelled by the Commissioner, may, within thirty (30) days after the cancellation thereof, and not thereafter, have his right of action for reinstatement against the Commissioner in the District Court of Travis County. If the agent whose license has been cancelled by the Commissioner shall, within ten (10) days after receiving information of such cancella-

tion, give notice to the Commissioner in writing of his intention to file such suit, the action of the Commissioner in cancelling the said license shall be suspended for a period of thirty (30) days, but unless such suit shall be filed within said time, the action of the Commissioner shall be final. If suit shall be filed against the Commissioner to reinstate said license within said time, the action of the Commissioner shall remain suspended until the validity of the license in question shall be adjusted by the Court in said suit. In such suits the burden shall be upon the agent to show good cause for reinstatement of his license.

#### Out-of-State Agencies.

Sec. 6. No foreign labor agent, labor bureau or labor agency or other person or corporation resident of or domiciled in any other State or territory of the United States shall enter this State and attempt to hire, entice, or solicit or take from this State any common or agricultural workers, singly or in groups, for any purpose without first applying to the Commissioner of the Bureau of Labor Statistics for a license as an employment or labor agent as provided by this Act.

#### Reports to Commissioner.

Sec. 7. Any labor agent hiring, enticing, or soliciting common or agricultural workers in this State to be employed beyond the limits of this State, shall make monthly reports to the Commissioner on the first day of each and every month covering the preceding month, correctly showing the name and address of every representative, subagent, contractor, solicitor, recruiter engaged in any part of the work of that agency connected with the hiring, enticing, or soliciting of common or agricultural workers in this State to be employed beyond the limits of this State, and correctly showing:

(a) The name, age, sex, race, and address of each person solicited to be employed beyond the limits of this State.

(b) The name and address of the employer of every such person.

(c) The kind of work every such person is employed to do.

(d) The place where every such person is to be employed.

(e) The term of employment of every such person.

(f) The wages to be paid to every such person for his work, and

(g) Whether or not transportation is to be furnished, arranged for, or paid for any such common laborer or agricultural worker either leaving or returning to this State.

The said Commissioner shall have the authority and it shall be his duty to cancel the license of every agent who fails to make and file such monthly reports on or before the tenth day of each month, respectively, for the preceding month in accordance with the cancellation procedure provided in this Act.

#### Certain Acts Prohibited.

Sec. 7C.<sup>1</sup> No labor agent shall:

(a) Knowingly admit, or allow to remain on the premises of such agent any prostitute, gambler, intoxicated person or any person of bad character.

(b) Advertise his agency by means of cards, circulars, signs or in newspapers or other publications, unless all such advertisements shall set forth the name of the agent and the address of his labor office; nor shall any such licensed person use any letterheads or blanks not containing the name of such labor agent and the address of his labor office.

(c) Publish or cause to be published any false or misleading advertisement or notice relating to his labor agency.

(d) Give any false information or make any false representation concerning employment to any applicant for employment.

(e) Send out an applicant for employment to any prospective employer without first having obtained a bona fide written order from such prospective employer.

(f) Furnish any female for immoral purposes; or send, or cause to be sent any female to enter as servant, inmate, or for any purpose whatsoever, any place of bad repute, house of ill fame, or assignation house, or any house or place of amusement kept for immoral purposes, the character of which such labor agent could have ascertained by reasonable diligence.

(g) Furnish employment to any child in violation of the Statutes regulating the employment of children or the compulsory attendance at school.

(h) Divide or offer to divide, directly or indirectly, any fee charged or received with any person who secures workers through such agent, or to whom workers are referred by such agent.

(i) No labor agent shall send any person to a prospective employer who is conducting a "lockout" against all or part of his employees; or whose employees, or a part of them are out on a strike, without first apprising said person of the existence of said "lockout" or strike.

<sup>1</sup> So in enrolled bill. There are no Sections 7A or 7B.

#### **License as Evidence.**

Sec. 8. Any application made by an employment or labor agent for a license, or a certified copy thereof under the hand and seal of the Commissioner, shall be received as evidence in any Court in this State without the necessity of proving the execution thereof.

#### **Disposition of License Fees Collected.**

Sec. 9. License fees collected under the provisions of this Act shall be deposited by the Commissioner with the State Treasurer, to be held in a fund known as the Employment Agency Fund, such funds to be used for expenses incurred in inspecting, regulating and printing blank forms to be furnished Labor Agents or Agencies or for any other purpose within the discretion of the Commissioner in furthering the administration of this Act, and the same together with any balance on hand in such funds on the effective date of this Act, is hereby appropriated for such purpose and all such expenditures shall be verified by the person to whom such payments are made and on the approval of such expenditures by the Commissioner it shall be the duty of the Comptroller of the State to issue his warrant on the Treasurer of the State for the amount of such expenditures in favor of the person claiming the same, to be paid out of said Employment Agency Fund.

#### **To display license.**

Sec. 10. Every Labor Agent shall keep conspicuously posted in his office the license issued to him under this law.

#### **Doing Business Without License.**

Sec. 11. Any person acting as a Labor Agent, as defined by this Act, without having first filed with the Commissioner of Labor Statistics of the State of Texas, an application for license as Labor Agent as provided by this Act, and/or without having first paid all State and county occupation taxes, and annual license fee as provided by law, or without having first secured a State license as provided, shall be guilty of a misdemeanor and

upon conviction shall be punished by fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

**Authority of the Commissioner.**

Sec. 12. The Commissioner of the Bureau of Labor Statistics and his deputies or inspectors are hereby empowered to enforce the provisions of this Act, and shall have the authority of peace officers in making arrests of any person or persons who violate, in their presence, any of the provisions of this Act; and when such arrest has been made, the Commissioner or his duly appointed deputies or inspectors may enter any employment office at any time when such employment office is open for business and inspect the registers and all other records of whatsoever kind and character of such employment or labor agent for the purpose of ascertaining whether the provisions of this law are being violated, and the refusal of any employment or labor agent to permit such inspection shall be a violation of the Act, and be sufficient reason for the Commissioner to cancel the license of such agent in accordance with the provisions of Section 5 of this Act.

**Punishment.**

Sec. 13. Unless otherwise provided for in this Act, any employment or labor agent who violates any provision of this Act shall be fined not less than Twenty-five Dollars (\$25), nor more than Two Hundred Dollars (\$200).

**Providing a Saving Clause.**

Sec. 14. 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 remainder of the Act shall be given effect as if said invalid, unconstitutional or inoperative section, or part of section or provision, had not been included. In the event any penalty, right or remedy created or given in any section or part of this Act is held invalid, unconstitutional or inoperative, this shall not affect the validity of any other penalty, right or remedy created or given either in the whole Act or in the Section thereof containing such invalid, unconstitutional or inoperative part, and if any exception to or any limitation upon any general provision herein contained shall be held to be unconstitutional or invalid, the general provisions shall nevertheless stand effective and valid as if the same had been enacted without such limitation or exceptions.

**Repealing Conflicting Laws.**

Sec. 15.<sup>45</sup> Chapter 67, Page 86, General Laws of the Forty-eighth Legislature, 1943,<sup>1</sup> is specifically repealed, and all laws or parts of laws in conflict with provisions of this Act are hereby repealed, except that all valid licenses heretofore issued by the Bureau of Labor Statistics and in force at the time of the effective date of this Act shall continue in force until their expiration date, or are cancelled according to the provisions of this Act. Acts 1949, 51st Leg., p. 434, ch. 234.

<sup>1</sup> Article 5221a—4, Vernon's Ann.P.C. art. 1593a.

Emergency. Effective May 20, 1949.

**Art. 5221a—6. Private Employment Agency Law**

**Definition as used in the Act.**

Section 1. (a) The term "person" means an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver.

(b) "Fee" means anything of value including money or other valuable consideration or services or the promise of any of the foregoing received by an employment agency from or on behalf of any person seeking employment or employees in payment for any service, either directly or indirectly.

(c) "Employer" means any person employing or seeking to employ any employee.

(d) "Employee" means any person performing or seeking to perform work or service of any kind for hire.

(e) "Private Employment Agent" means any person in this State who for a fee or without a fee offers or attempts to procure employment for employees or procure or attempts to procure employees for employers except employees as common laborers or agricultural workers.

(f) "Commissioner" shall mean the Commissioner of the Bureau of Labor Statistics.

(g) "Deputy or Inspector" shall mean any person who is duly authorized by the Commissioner to act in that capacity.

(h) "Agent" shall mean a Private Employment Agent as defined by this Act.

#### Exceptions.

Sec. 2. The provisions of this Act shall not apply to agencies engaged solely in the procurement of employment for public school teachers and administrators; the provisions of this Act shall not apply to any employment agency established and operated by this State, the United States Government, or any municipal government of this State; the provisions of this Act shall not apply to any person who may operate a Labor Bureau or employment office in conjunction with his own business for the sole and exclusive purpose of employing help for his own use within or without this State, nor to any common carrier operating in this State who may operate an employment office in conjunction with his own business for the exclusive purpose of employing help for his own use within or without this State, provided that no fee or other charge or reduction is exacted from the salary or wages of the worker for employment given. If a fee or charge of any kind, either directly or indirectly is exacted of a worker, then said employer is deemed a Private Employment Agent and is subject to the provisions of this Act. The provisions of this Act shall not apply to farmers or stock raisers acting jointly or severally in securing laborers for their own use in this State where no fee is charged or collected, either directly or indirectly, for employment given; the provisions of this Act shall not apply to persons acting for members of their own family. The provisions of this Act shall not apply to any person, corporation, or charitable association chartered under the Laws of Texas for the purpose of conducting a free employment bureau or agency, nor to any veterans organization or labor union; nor to any nurses' organization operated without profit when conducted by registered nurses for the enrollment of its professional members only for the purpose of providing professional service to the public; the provisions of this Act shall not apply to a labor agent engaged exclusively in the business of procuring common laborers or agricultural workers for employers or any person engaged exclusively in the business of procuring or attempting to procure jobs for common laborers or agricultural workers.

#### Application and License.

Sec. 3. Application for a Private Employment Agency license shall be executed on blank forms prescribed and furnished by the Commissioner. Application for license to act as a Private Employment Agency may be made in person or by mail to the Commissioner upon blank application

form which shall be verified by the applicant. Where the application is made by a firm, partnership, or an association of persons, it must be verified by each person for whose benefit the application is made, and such application shall also be accompanied by affidavits of at least five (5) creditable citizens who have resided in the county in which such applicant desires to conduct the business of a Private Employment Agency, for at least three (3) years, to the effect that the applicant or applicants are residents of the county in which such person desires to become a Private Employment Agent, and that such person or persons are of good moral character. The Commissioner may require additional evidence of the moral character of applicants and make such additional investigation of said applicants as he deems necessary, and no license shall be granted to any person except those of good moral character. Under no condition shall a license be issued to any person or persons, if anyone financially interested in or has a managerial control of the proposed Private Employment Agency has ever been convicted of a felony. Such applications shall be examined by the Commissioner and if he finds that the same complies with the law and that the applicant is entitled to a license, then he shall issue a license to the applicant and shall deliver such license to the applicant upon the payment of the license fee of One Hundred and Fifty Dollars (\$150). There shall be only one type of license issued under the provisions of this Act, which license shall be designated as a Private Employment Agency license, which will permit the licensee to act as a Private Employment Agent, maintaining only one office under said license.

Each license issued by the Commissioner shall be good for a period of one year from the date of issuance. No occupation tax shall be levied by the State or any political subdivisions thereof in connection with the operation of a Private Employment Agency.

#### **Bond.**

Sec. 4. Each person making application for an employment agency license and before such license is issued, shall make and file with the Commissioner a good and sufficient bond executed by the applicant with good and sufficient surety in the penal sum of Five Thousand Dollars (\$5,000), payable to the State of Texas; said bond shall be conditioned that the obligor will not violate any of the duties, terms, conditions, and requirements of this Act, and that the principal, his agents or representatives will not make any false representation or statement to any person soliciting assistance from him for employees or employment, or solicited by him to accept employment.

Said bond is to further recite that any person injured or aggrieved by any false or fraudulent statement of such agent, his subagents or representatives, or any violation of any provisions of this Act thereof by such agent, subagent or representative, shall be entitled to bring suit thereon.

#### **Suits on Bond.**

Sec. 5. Any person injured or aggrieved by any action, conduct, false representation or false statement of any such employment agent, his subagents or representatives may bring suit for damages against such agent on said bond in any county where such action, conduct, false representation or false statement was made in any Court of competent jurisdiction, without the necessity of making the State a party thereto. Where the bond has become impaired by recoveries thereon to the extent of fifty per cent (50%) of the penal sum named therein, the Commissioner may, by a notice in writing, demand the execution of a new bond, which if not executed and submitted to the Commissioner within twenty (20) days for



his approval, such failure to execute a new bond shall ipso facto forfeit and cancel the license issued to the principal named in said bond.

**Agents to keep record.**

Sec. 6. Every licensed Private Employment Agent shall keep and maintain an office in this State at which a complete record of business transacted, as required by this Act, shall be kept, such records may be inspected during normal business hours by the Commissioner of the Bureau of Labor Statistics, his deputies or inspectors when said Commissioner, his deputies or inspectors have been presented with a bona fide complaint against said agency and upon demand of the Commissioner, his deputies or inspectors, the agency so complained of must furnish records and any other evidence required with respect to such complaint. Failure on the part of any agent or agency to furnish such information as required by this Section shall be sufficient grounds for the Commissioner to cancel the license of said agent and he shall have the authority and it shall be his duty to do so.

**Cancellation of license.**

Sec. 7. The Commissioner shall have the authority, and it shall be his duty to cancel the license of any Private Employment Agent when it shall appear to his satisfaction, upon hearing, that said agent has been convicted in a State or Federal Court of an offense which under the laws of this State is a felony, or for any offense involving moral turpitude, or that said agent had obtained his license illegally or fraudulently or was guilty of fraud, false swearing, or deception in securing his license, or has violated any provisions of this Act.

The Commissioner shall not cancel the license of any agent until complaint in writing, made by a credible person, shall be filed with him, specifying the ground or grounds of the proposed cancellation, and a full and fair hearing given to him thereon. Upon the filing of such complaint, the Commissioner shall fix a time and place, reasonably accessible to the agent complained against, for the hearing of said complaint. The Commissioner shall notify the agent so complained against of the time and place fixed for said hearing by a registered letter addressed to him at his post-office address as the same appears upon his application for license, accompanied by an exact copy of the complaint against him; and mailing of such notice and copy shall be sufficient and conclusive evidence of proper service of the procedure upon the agent so complained against. The agent so complained against shall have at least ten (10) days after the date said notice is mailed, exclusive of the day of mailing and the day of hearing, before hearing upon said complaint shall be had, and shall have the right to file answer, introduce evidence, examine witnesses, and to be heard both in person and by counsel. The Commissioner shall have the power to summon and compel the attendance of witnesses before him to testify in relation to any such complaint, and may require the production of any book, paper or document deemed pertinent thereto. Said Commissioner shall also have the power to provide for the taking of depositions of witnesses and evidence may be heard either from witnesses present and testifying orally, or by deposition taken under rules of existing civil court procedure and in such fair and impartial manner as the Commissioner may prescribe. Said hearing shall be had before the Commissioner and shall be conducted in a fair and orderly manner, and in accordance with rules of procedure to be adopted by the Commissioner, not in conflict with the rules of civil procedure.

At the conclusion of the hearing the Commissioner shall enter his findings and judgment in writing and the same shall be recorded by him

in a permanent record to be kept by him, and a copy thereof furnished to the agent complained against. Any agent whose license shall be cancelled by the Commissioner, may, within thirty (30) days, after the cancellation thereof, and not thereafter, appeal such decision to the District Court of Travis County, and the trial shall be de novo and tried as any other civil action. If the agent whose license has been cancelled by the Commissioner shall, within ten (10) days after receiving information of such cancellation, give notice to the Commissioner in writing of his intention to appeal said decision, the action of the Commissioner in cancelling the said license shall be suspended for a period of thirty (30) days, but unless such appeal shall be filed within said time, the action of the Commissioner shall be final. If an appeal of the decision of the Commissioner shall be filed within said time, the action of the Commissioner shall remain suspended until the validity of the license in question shall be adjudicated by the Court in said appeal.

Any person whose license is finally suspended according to the provisions of this Section, shall be prohibited from obtaining another Private Employment Agency license for a period of five (5) years.

#### Fees.

Sec. 8. Private Employment Agents or Agencies as defined by this Act and who are engaged in the business of attempting to procure employment for employees or procures or attempts to procure employees for employers in skilled, professional, or clerical positions may charge, with the written consent of the applicant, a fee, not to exceed forty per cent (40%) of the first month's salary, which may be collected from the applicant only after employment has been obtained and accepted by the applicant.

#### Receipt forms prescribed.

Sec. 9. A receipt shall be given by the employment agent to all applicants for all fees collected from such applicants. The form of such receipt shall be prescribed by the Commissioner of Labor and shall contain the name of the applicant, the amount of the fee paid, the date, the character of the work or the position secured, the name of the employer, together with his post-office address and the location of the work the applicant is to perform.

#### Certain acts prohibited.

Sec. 10. No Private Employment Agent shall:

(a) Knowingly admit, or allow to remain on the premises of such agent any prostitute, gambler, intoxicated person or any person of bad character.

(b) Advertise his agency by means of cards, circulars, signs or in newspapers, or other publication, unless all such advertisements shall set forth the name and address of such agency; nor shall any such licensed person use any letterheads or blanks not containing the name and address of such agency.

(c) Publish or cause to be published any false or misleading advertisement or notice relating to his employment agency.

(d) Give any false information or make any false representation concerning employment to any applicant for employment.

(e) Send out an applicant for employment to any prospective employer without first having obtained a bona fide order from such prospective employer.

(f) Furnish any female for immoral purposes; or send, or cause to be sent any female to enter as servant, inmate, or for any purpose whatsoever, any place of bad repute, house of ill fame, or assignation houses, or any house or place of amusement kept for immoral purposes, the character

of which such employment agent could have ascertained by reasonable diligence.

(g) Furnish employment to any child in violation of the Statutes regulating the employment of children or the compulsory attendance at school.

(h) Divide or offer to divide, directly or indirectly, any fee charged or received with any person who secures workers through such agent, or to whom workers are referred by such agent.

(i) No employment agent shall send any person to a prospective employer who is conducting a "lockout" against all or part of his employees; or whose employees, or a part of them are out on a strike, without first apprising said person of the existence of said "lockout" or strike.

**Untruth by employer or applicant.**

Sec. 11. No employer seeking employees, and no person seeking employment, shall knowingly make any false statement or conceal any material facts for the purpose of obtaining employees, or employment, by or through any Private Employment Agents.

**To Display License.**

Sec. 12. Every Private Employment Agent shall keep conspicuously posted in his office the license issued to him under this law.

**Penalty for doing business without license.**

Sec. 13. Whoever acts as a Private Employment Agent or conducts a Private Employment Office in any county of this State without having first filed with the Commissioner of the Bureau of Labor Statistics of the State of Texas, an application for license as a Private Employment Agent as provided by this Act, and/or without having first paid the annual license fee as provided by this Act, and/or without having first secured a State license as provided by 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) and not exceeding Five Hundred Dollars (\$500), or by imprisonment in the county jail for not exceeding six (6) months, or by both such fine and imprisonment.

**Authority of the Commissioner.**

Sec. 14. The Commissioner of the Bureau of Labor Statistics and his deputies or inspectors are hereby empowered to enforce the provisions of this Act, and shall have the authority of peace officers in making arrests of any person or persons who violate, in their presence, any of the provisions of this Act; the Commissioner or his duly appointed deputies or inspectors may enter any employment office at any time when such employment office is open for business and inspect the registers and all other records of whatsoever kind and character of such Private Employment Agent for the purpose of ascertaining whether the provisions of this law are being violated, and the refusal of any Private Employment Agent to permit such inspection shall be a violation of the Act, and be sufficient reason for the Commissioner to cancel the license of such agent in accordance with the provisions of Section 7 of this Act.

It is further provided that any information obtained by the Commissioner of Bureau of Labor Statistics, or his duly appointed deputies or inspectors, from any Private Employment Agent's records of whatsoever kind and character are confidential and are not to be divulged by sign, word or in writing and is to be used only in carrying out their duties as enumerated in this Act.

**Injunction.**

Sec. 15. Any person who shall act as a Private Employment Agent, or who shall conduct an employment office, without first procuring a license as required and provided for in this Act may be enjoined from unlawfully pursuing such business or occupation, and the Attorney General shall bring suit for such purpose in the name of the State of Texas in Travis County, and the district or county attorney of any county wherein such person engages in such business or conducts an employment office in violation of this Act is hereby authorized to maintain in the proper Court of said county a suit in the name of the State of Texas to enjoin and prevent such person from unlawfully pursuing such occupation. In all such cases it shall not be necessary for the attorney bringing the suit to verify the pleadings or for the State to execute any bond as a condition precedent to the issuing of any injunction or restraining order hereunder.

**License as Evidence.**

Sec. 16. Any application made by a Private Employment Agent for a license, or a certified copy thereof under the hand and seal of the Commissioner, shall be received as evidence in any Court in this State without the necessity of providing the execution thereof.

**Disposition of License Fees Collected.**

Sec. 17. The Commissioner shall deposit with the State Treasurer as provided by law all moneys received by him from license fees under the provisions of this Act, to be held in a separate fund known as the "Employment Agency Fund" and to be used for expenses incurred in inspecting, regulating and printing blank forms to be furnished such employment agencies by the Commissioner and the same, together with balance on hand in such fund on the effective date of this Act, is hereby appropriated for said purposes, and all such expenditures shall be verified by the person to whom such payments are made and on the approval of such expenditures by the Commissioner it shall be the duty of the Comptroller of the State to draw his warrant on the Treasurer of the State for the amount of such expenditures in favor of the person claiming the same, to be paid out of the "Employment Agency Fund."

**Saving Clause.**

Sec. 18. 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 remainder of the Act shall be given effect as if said invalid, unconstitutional or inoperative section, or part of section or provision, had not been included. In the event any penalty, right or remedy created or given in any section or part of this Act is held invalid, unconstitutional or inoperative, this shall not affect the validity of any other penalty, right or remedy created or given either in the whole Act or in the section thereof containing such invalid, unconstitutional or inoperative part, and if any exception to or any limitation upon any general provision herein contained shall be held to be unconstitutional or invalid, the general provisions shall nevertheless stand effective and valid as if the same had been enacted without such limitation or exceptions.

**Repealing Conflicting Laws.**

Sec. 19. All laws or parts of laws in conflict with this Act are hereby repealed to the extent and in respect to such conflict, except that all valid licenses heretofore issued by the Bureau of Labor Statistics and

in force at the time of the effective date of this Act shall continue in force until their expiration date, or are cancelled according to the provisions of this Act. Acts 1949, 51st Leg., p. 453, ch. 245.

Emergency. Effective May 21, 1949.

## CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION

### Article 5221b—1. Benefits

(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 Employment 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 twenty-sixth ( $\frac{1}{26}$ ) 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 Twenty Dollars (\$20) per benefit period nor less than Seven Dollars (\$7) 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 subsection 4(a) of this Act.<sup>1</sup> Such partial benefit shall be the benefit amount plus Three Dollars (\$3) 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 Two Thousand Four Hundred Dollars (\$2,400). The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed whichever is the lesser of:

(1) Twenty-four (24) times his benefit amount, or

(2) One-fifth ( $\frac{1}{5}$ ) of such wage credits. As amended Acts 1949, 51st Leg., p. 282, ch. 148, § 1.

<sup>1</sup> Article 5221b—2.

Effective Oct. 1, 1949.

Sections 10-12 of the amendatory act of 1949, read as follows:

"Sec. 10. The provisions of this Act shall repeal all parts of the Texas Unemployment Compensation Act, as amended, in conflict herewith and all laws or parts of laws in conflict herewith, but shall in no way be construed as forfeiting or waiving rights to collection of contributions, interest or penalties that have accrued under said Texas Unemployment Compensation Act, as amended, nor the right of prosecution for violating any provision thereof; nor the rights of any individual to benefits which accrued prior to October 1, 1949; provided that if benefits are payable to an individual with respect to the last completed week prior to October 1, 1949, such individual shall continue to receive benefits in accordance with the de-

termination made pursuant to the then provisions of said Texas Unemployment Compensation Act, as amended, for such time thereafter during his then benefit year as he shall remain unemployed and eligible, any provisions of this Act to the contrary notwithstanding; and provided further that the aggregate benefits so payable shall be limited in accordance with said determination.

"Sec. 11. This Act shall become effective on the first day of July, 1949.

"Sec. 12. If any phrase, sentence, paragraph or Section of this Act shall be held invalid or unconstitutional, such holding shall not invalidate any other sentence, paragraph or Section hereof, and the Legislature hereby expressly declares that it would have passed such remaining phrases, sentences, paragraphs and Sections despite such invalidity."

**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 subsection 6(a) of this Act;<sup>1</sup>

(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 Two Hundred Dollars (\$200) and he has received a portion of such wages in at least two (2) of the calendar quarters within his base period;

(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 subsection (a) of this Section;

(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 1949, 51st Leg., p. 282, ch. 148, § 2.

<sup>1</sup> Article 5221b—4.

Effective Oct. 1, 1949.

**Art. 5221b—3. Disqualification for benefits**

An individual shall be disqualified for benefits:

(a) If the Commission finds that he has left his last work voluntarily without good cause connected with his work. Such disqualification shall be for not less than one (1) nor more than twenty-four (24) benefit periods immediately following the filing of a valid claim, as determined by the Commission according to the circumstances in each case.

(b) If the Commission finds that he has been discharged for misconduct connected with his last work. Such disqualification shall be for not less than one (1) nor more than twenty-four (24) benefit periods immediately following the filing of a valid claim, as determined by the Commission in each case according to the seriousness of the misconduct.

(c) If the Commission finds that he has failed, without good cause, either to apply for available, suitable work when so directed by the Commission or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the Commission. Such disqualification shall be for not less than one (1) nor more than twelve (12) benefit periods following the filing of a valid claim, as determined by the Commission according to the circumstances in each case.

(1) In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this Act,<sup>1</sup> no work shall be deemed suitable and benefits shall not be denied under this Act to

any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) For any benefit period with respect to which the Commission finds that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises (including a vessel) at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the Commission that:

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work;

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises (including a vessel) at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

(e) For any benefit period with respect to which he is receiving or has received remuneration in the form of:

(1) Wages in lieu of notice;

(2) Compensation for temporary partial disability, temporary total disability or total and permanent disability under the Workmen's Compensation Law of any State or under a similar law of the United States;

(3) Old Age Benefits under Title II of the Social Security Act as amended, or similar payments under any Act of Congress, or a State Legislature; provided, that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such benefit period, if otherwise eligible, benefits reduced by the amount of such remuneration. If any such benefits, payable under this subsection, after being reduced by the amount of such remuneration, are not an even multiple of One Dollar (\$1), they shall be adjusted to the next higher multiple of One Dollar (\$1).

(f) In determining the number of benefit periods during which any individual is entitled to receive benefits in a benefit year, the Commission shall deduct any period of disqualification as provided in subsections (a), (b), and (c) of this section from the total number of benefit periods during which he would otherwise be entitled to receive benefits except for such disqualification; provided, that in no case shall the number of benefit periods so deducted exceed the number of benefit periods during which the claimant is then eligible to receive benefits except for such disqualification. As amended Acts 1949, 51st Leg., p. 282, ch. 148, § 3.

<sup>1</sup> Article 5221b—1 et seq.

<sup>2</sup> 42 U.S.C.A. § 401 et seq.

Effective Oct. 1, 1949.

**Art. 5221b—4. Claims for benefits**

(a) Filing: Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service, and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the Commission to each employer without cost to him.

(b) Initial Determination: A representative designated by the Commission shall promptly examine the claim and, on the basis of the facts found by him, shall either determine whether or not such claim is valid, and if valid, the date on which benefits shall commence, the benefit amount payable and the maximum duration thereof, or shall refer such claim or any question involved therein to an appeal tribunal or to the Commission, which shall make its determinations with respect thereto in accordance with the procedure described in subsection (c) of this Section, except that in any case in which the payment or denial of benefits will be determined by the provisions of subsection 5(d) of this Act,<sup>1</sup> the representative shall promptly transmit his full findings of fact with respect to that subsection to the Commission, which, on the basis of the evidence submitted and such additional evidence as it may require, shall affirm, modify, or set aside such findings of fact and transmit to the representative a decision upon the issues involved under that subsection. The representative shall promptly notify the claimant and any other interested party of the decision and the reasons therefor. Unless the claimant or any such interested party, within ten (10) calendar days after the delivery of such notification, or within twelve (12) calendar days after such notification was mailed to his last known address, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith. If an appeal is duly filed, benefits with respect to the period prior to the final determination of the Commission shall be paid only after such determination; provided, that if an appeal tribunal affirms a decision of a representative, or the Commission affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken but if such decision is finally reversed, no employer's account shall be charged with benefits so paid.

(c) Appeals: Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the Commission, unless within ten (10) days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection (e) of this Section.

(d) Appeal Tribunals: To hear and decide disputed claims, the Commission, if it is necessary to insure prompt disposal of cases on appeal, shall establish one or more impartial appeal tribunals consisting in each case of either a salaried examiner or a body consisting of three (3) members, one of whom shall be a salaried examiner, who shall serve as Chairman, one of whom shall be a representative of employers and the other of whom shall be a representative of labor; each of the latter two members shall serve at the pleasure of the Commission and be paid a fee of not more than Ten Dollars (\$10) per day of active service on such tribunal plus necessary expenses. No person shall participate on behalf of the Commission in any case in which he is an interested party.



The Commission may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The Chairman shall act alone in the absence or disqualification of any other member and his alternates. In no case shall the hearings proceed unless the Chairman of the appeal tribunal is present.

(e) Commission Review: The Commission may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The Commission shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and by the representative whose decision has been overruled or modified by an appeal tribunal. The Commission may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceeding so removed to the Commission shall be heard by a quorum thereof in accordance with the requirements in subsection (c) of this Section. The Commission shall promptly notify the interested parties of its findings and decision, and shall send a certified copy of its order to all interested parties.

(f) Procedure: The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules or regulations prescribed by the Commission for determining the rights of the parties. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) Witness Fees: Witness subpoenaed pursuant to this Section shall be allowed fees at a rate fixed by the Commission. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this Act.<sup>2</sup>

(h) Appeal to Courts: Any decision of the Commission in the absence of an appeal therefrom as herein provided shall become final ten (10) days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission as provided by this Act. The Commission shall be deemed to be a party to any judicial action involving any such decision and may be represented in any such judicial action by any qualified attorney who is a regular salaried employee of the Commission and has been designated and appointed for that purpose by the Attorney General of Texas.

(i) Court Review: Within ten (10) days after the decision of the Commission has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action in any court of competent jurisdiction in the county of claimant's residence against the Commission for the review of its decision, in which action any other party to the proceeding before the Commission shall be made a defendant. Such trial shall be de novo. In such action, a petition which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon a member of the Commission or upon such person as the Commission may designate and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants and the Commission shall forthwith mail one such copy to each such defendant. Such action shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation Law

of this State.<sup>3</sup> An appeal may be taken from the decision of the trial court, in the same manner, as is provided in other civil cases. It shall not be necessary, in any judicial proceedings under this Section, to enter exceptions to the rulings of the Commission and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the Commission shall enter an order in accordance with such determination. A petition for judicial review shall not act as a supersedeas. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 4.

<sup>1</sup> Article 5221b—3(d).

<sup>2</sup> Article 5221b—1 et seq.

<sup>3</sup> Article 8306 et seq.

Effective Oct. 1, 1949.

#### Art. 5221b—5. Contributions

##### (c) Experience Rating: \* \* \*

(2) (A) When in any benefit year total benefits paid to an individual for total or partial unemployment first equal 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 equal 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 Two Thousand Four Hundred Dollars (\$2,400) 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; PROVIDED, that an "employer's benefit wages" shall not include benefit wages received from him by any employee or former employee whose separation from such employer's employment was (i) a separation required by a Federal or a Texas Statute or a Texas municipal ordinance; or (ii) a separation for which a disqualification under subsection 5 (a) or 5 (b) of this Act would have been imposed if such employer's employment of the employee or former employee had been the employee's last work; or (iii) a separation with respect to which a disqualification was imposed under subsection 5 (a) or 5 (b) of this Act; and, with respect to a separation mentioned in (i), (ii), or (iii) of this proviso:

a. The employer has furnished the Commission due notice of the separation, including a statement of the facts in connection therewith, in accordance with such regulations as the Commission may prescribe; and

b. A Commission representative, the Appeal Tribunal, the Commission, or the court has rendered a determination or a decision with respect to such separation which has become final and such determination or decision is that the separation of such employee or former employee was a separation described in provision (i), (ii), or (iii) above.

(B) Determinations under the proviso of subsection (2) (A) of this Section with respect to "employer's benefit wages" shall be made by the Commission representative at the time of the making of the initial determination with respect to benefits as provided in Section 6 of the Act<sup>1</sup> but shall be separate and distinct therefrom; and appeals from such determinations to the Appeal Tribunal, the Commission and the courts shall be permitted in a manner and according to rules or regulations similar to those applicable to appeals from determinations or decisions on claims for benefits as provided in Section 6 of this Act; except that

venue and jurisdiction of appeals to the courts with respect to "employer's benefit wages" shall be the same as venue and jurisdiction in suits to collect contributions and penalties under this Act. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5.

<sup>1</sup> Article 5221b—4.

Effective Oct. 1, 1949.

(4) The benefit wage ratio of each employer shall be a percentage equal to the total of his "employer's benefit wages" for the thirty-six (36) consecutive completed calendar months immediately preceding the date as of which the employer's tax rate is determined divided by his total taxable payroll for the same months on which contributions have been paid to the Commission on or before the last day of the month in which the computation date occurs. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5A.

Effective July 1, 1949.

(5) For any calendar year the total benefits paid from the fund, less all amounts credited to the fund except employers' contributions collected under this Section, and except interest earned on the fund, shall be termed the "amount required from employers." The amount required from employers, divided by the State-wide total of "benefit wages" for that calendar year, after adjustments to the nearest multiple of one (1%) per centum shall be termed the "State experience factor." The State experience factor for any year shall be determined prior to the due date of the first contribution payment on wages for employment in that year and such determination shall be made upon the basis of figures for the preceding calendar year; such State experience factor shall not be affected by any subsequent adjustment of any employer's benefit wages. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5B.

Effective July 1, 1949.

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

(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 State  
Experience  
Factor is

1% or Less	If the Employer's Benefit Wage Ratio Does Not Exceed									
	10.0%	20.0%	30.0%	40.0%	50.0%	60.0%	70.0%	80.0%	90.0%	
2	5.0	10.0	15.0	20.0	25.0	30.0	35.0	40.0	45.0	
3	3.3	6.7	10.0	13.3	16.7	20.0	23.3	26.7	30.0	
4	2.5	5.0	7.5	10.0	12.5	15.0	17.5	20.0	22.5	
5	2.0	4.0	6.0	8.0	10.0	12.0	14.0	16.0	18.0	
6	1.7	3.3	5.0	6.7	8.3	10.0	11.7	13.3	15.0	
7	1.4	2.9	4.3	5.7	7.1	8.6	10.0	11.4	12.9	
8	1.3	2.5	3.8	5.0	6.3	7.5	8.8	10.0	11.3	
9	1.1	2.2	3.3	4.4	5.6	6.7	7.8	8.9	10.0	
10	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	
11	.9	1.8	2.7	3.6	4.5	5.5	6.4	7.3	8.2	
12	.8	1.7	2.5	3.3	4.2	5.0	5.8	6.7	7.5	
13	.8	1.5	2.3	3.1	3.8	4.6	5.4	6.2	6.9	
14	.7	1.4	2.1	2.9	3.6	4.3	5.0	5.7	6.4	
15	.7	1.3	2.0	2.7	3.3	4.0	4.7	5.3	6.0	
16	.6	1.3	1.9	2.5	3.1	3.8	4.4	5.0	5.6	
17	.6	1.2	1.8	2.4	2.9	3.5	4.1	4.7	5.3	
18	.6	1.1	1.7	2.2	2.8	3.3	3.9	4.4	5.0	
19	.5	1.1	1.6	2.1	2.6	3.2	3.7	4.2	4.7	
20	.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	
21	.5	1.0	1.4	1.9	2.4	2.9	3.3	3.8	4.3	
22	.5	.9	1.4	1.8	2.3	2.7	3.2	3.6	4.1	
23	.4	.9	1.3	1.7	2.2	2.6	3.0	3.5	3.9	
24	.4	.8	1.3	1.7	2.1	2.5	2.9	3.3	3.7	
25	.4	.8	1.2	1.6	2.0	2.4	2.8	3.2	3.6	
26	.4	.8	1.2	1.5	1.9	2.3	2.7	3.1	3.5	
27	.4	.7	1.1	1.5	1.9	2.2	2.6	3.0	3.3	
28	.4	.7	1.1	1.4	1.8	2.1	2.5	2.9	3.2	
29	.3	.7	1.0	1.4	1.7	2.1	2.4	2.8	3.1	
30	.3	.7	1.0	1.3	1.7	2.0	2.3	2.7	3.0	
31	.3	.6	1.0	1.3	1.6	1.9	2.3	2.6	2.9	
32	.3	.6	.9	1.2	1.6	1.9	2.2	2.5	2.8	
33	.3	.6	.9	1.2	1.5	1.8	2.1	2.4	2.7	
34	.3	.6	.9	1.2	1.5	1.8	2.1	2.4	2.6	
35	.3	.6	.8	1.1	1.4	1.7	2.0	2.3	2.6	

The Employer's Contribution Rate Shall Be:

.1% .2% .3% .4% .5% .6% .7% .8% .9%

When State  
Experience  
Factor is

When State Experience Factor is	If the Employer's Benefit Wage Ratio Does Not Exceed							
	1% or Less	100.0%	110.0%	120.0%	130.0%	140.0%	150.0%	160.0%
2	50.0	55.0	60.0	65.0	70.0	75.0	80.0	85.0
3	33.3	36.7	40.0	43.3	46.7	50.0	53.3	56.7
4	25.0	27.5	30.0	32.5	35.0	37.5	40.0	42.5
5	20.0	22.0	24.0	26.0	28.0	30.0	32.0	34.0
6	16.7	18.3	20.0	21.7	23.3	25.0	26.7	28.3
7	14.3	15.7	17.1	18.6	20.0	21.4	22.9	24.3
8	12.5	13.8	15.0	16.3	17.5	18.8	20.0	21.3
9	11.1	12.2	13.3	14.4	15.6	16.7	17.8	18.9
10	10.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0
11	9.1	10.0	10.9	11.8	12.7	13.6	14.5	15.5
12	8.3	9.2	10.0	10.8	11.7	12.5	13.3	14.2
13	7.7	8.5	9.2	10.0	10.8	11.5	12.3	13.1
14	7.1	7.9	8.6	9.3	10.0	10.7	11.4	12.1
15	6.7	7.3	8.0	8.7	9.3	10.0	10.7	11.3
16	6.3	6.9	7.5	8.1	8.8	9.4	10.0	10.6
17	5.9	6.5	7.1	7.6	8.2	8.8	9.4	10.0
18	5.6	6.1	6.7	7.2	7.8	8.3	8.9	9.4
19	5.3	5.8	6.3	6.8	7.4	7.9	8.4	8.9
20	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5
21	4.8	5.2	5.7	6.2	6.7	7.1	7.6	8.1
22	4.5	5.0	5.5	5.9	6.4	6.8	7.3	7.7
23	4.3	4.8	5.2	5.7	6.1	6.5	7.0	7.4
24	4.2	4.6	5.0	5.4	5.8	6.2	6.7	7.1
25	4.0	4.4	4.8	5.2	5.6	6.0	6.4	6.8
26	3.8	4.2	4.6	5.0	5.4	5.8	6.2	6.5
27	3.7	4.1	4.4	4.8	5.2	5.6	5.9	6.3
28	3.6	3.9	4.3	4.6	5.0	5.4	5.7	6.1
29	3.4	3.8	4.1	4.5	4.8	5.2	5.5	5.9
30	3.3	3.7	4.0	4.3	4.7	5.0	5.3	5.7
31	3.2	3.5	3.9	4.2	4.5	4.8	5.2	5.5
32	3.1	3.4	3.7	4.1	4.4	4.7	5.0	5.3
33	3.0	3.3	3.6	3.9	4.2	4.5	4.8	5.2
34	2.9	3.2	3.5	3.8	4.1	4.4	4.7	5.0
35	2.9	3.1	3.4	3.7	4.0	4.3	4.6	4.9

The Employer's Contribution Rate Shall Be:

1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%
------	------	------	------	------	------	------	------

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

When State  
Experience  
Factor is

1% or Less	If the Employer's Benefit Wage Ratio Does Not Exceed								
	180.0%	190.0%	200.0%	210.0%	220.0%	230.0%	240.0%	250.0%	
2	90.0	95.0	100.0	105.0	110.0	115.0	120.0	125.0	
3	60.0	63.3	66.7	70.0	73.3	76.7	80.0	83.3	
4	45.0	47.5	50.0	52.5	55.0	57.5	60.0	62.5	
5	36.0	38.0	40.0	42.0	44.0	46.0	48.0	50.0	
6	30.0	31.7	33.3	35.0	36.7	38.3	40.0	41.7	
7	25.7	27.1	28.6	30.0	31.4	32.9	34.3	35.7	
8	22.5	23.8	25.0	26.3	27.5	28.8	30.0	31.3	
9	20.0	21.1	22.2	23.3	24.4	25.6	26.7	27.8	
10	18.0	19.0	20.0	21.0	22.0	23.0	24.0	25.0	
11	16.4	17.3	18.2	19.1	20.0	20.9	21.8	22.7	
12	15.0	15.8	16.7	17.5	18.3	19.2	20.0	20.8	
13	13.8	14.6	15.4	16.2	16.9	17.7	18.5	19.2	
14	12.9	13.6	14.3	15.0	15.7	16.4	17.1	17.9	
15	12.0	12.7	13.3	14.0	14.7	15.3	16.0	16.7	
16	11.3	11.9	12.5	13.1	13.8	14.4	15.0	15.6	
17	10.6	11.2	11.8	12.4	12.9	13.5	14.1	14.7	
18	10.0	10.6	11.1	11.7	12.2	12.8	13.3	13.9	
19	9.5	10.0	10.5	11.1	11.6	12.1	12.6	13.2	
20	9.0	9.5	10.0	10.5	11.0	11.5	12.0	12.5	
21	8.6	9.0	9.5	10.0	10.5	11.0	11.4	11.9	
22	8.2	8.6	9.1	9.5	10.0	10.5	10.9	11.4	
23	7.8	8.3	8.7	9.1	9.6	10.0	10.4	10.9	
24	7.5	7.9	8.3	8.7	9.2	9.6	10.0	10.4	
25	7.2	7.6	8.0	8.4	8.8	9.2	9.6	10.0	
26	6.9	7.3	7.7	8.1	8.5	8.8	9.2	9.6	
27	6.7	7.0	7.4	7.8	8.1	8.5	8.9	9.3	
28	6.4	6.8	7.1	7.5	7.9	8.2	8.6	8.9	
29	6.2	6.6	6.9	7.2	7.6	7.9	8.3	8.6	
30	6.0	6.3	6.7	7.0	7.3	7.7	8.0	8.3	
31	5.8	6.1	6.5	6.8	7.1	7.4	7.7	8.1	
32	5.6	5.9	6.2	6.6	6.9	7.2	7.5	7.8	
33	5.5	5.8	6.1	6.4	6.7	7.0	7.3	7.6	
34	5.3	5.6	5.9	6.2	6.5	6.8	7.1	7.4	
35	5.1	5.4	5.7	6.0	6.3	6.6	6.9	7.1	

The Employer's Contribution Rate Shall Be:

1.8%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%
------	------	------	------	------	------	------	------

When State  
Experience  
Factor is

1% or Less	If the Employer's Benefit Wage Ratio Does Not Exceed								
	260.0%	270.0%	280.0%	290.0%	300.0%	310.0%	320.0%	330.0%	
2	130.0	135.0	140.0	145.0	150.0	155.0	160.0	165.0	
3	86.7	90.0	93.3	96.7	100.0	103.3	106.7	110.0	
4	65.0	67.5	70.0	72.5	75.0	77.5	80.0	82.5	
5	52.0	54.0	56.0	58.0	60.0	62.0	64.0	66.0	
6	43.3	45.0	46.7	48.3	50.0	51.7	53.3	55.0	
7	37.1	38.6	40.0	41.4	42.9	44.3	45.7	47.1	
8	32.5	33.7	35.0	36.2	37.5	38.7	40.0	41.2	
9	28.9	30.0	31.1	32.2	33.3	34.4	35.5	36.7	
10	26.0	27.0	28.0	29.0	30.0	31.0	32.0	33.0	
11	23.6	24.5	25.4	26.4	27.3	28.2	29.1	30.0	
12	21.7	22.5	23.3	24.2	25.0	25.8	26.7	27.5	
13	20.0	20.7	21.5	22.3	23.1	23.8	24.6	25.4	
14	18.6	19.3	20.0	20.7	21.4	22.1	22.9	23.6	
15	17.3	18.0	18.7	19.3	20.0	20.7	21.3	22.0	
16	16.3	16.9	17.5	18.1	18.7	19.4	20.0	20.6	
17	15.3	15.9	16.5	17.1	17.6	18.2	18.8	19.4	
18	14.4	15.0	15.5	16.1	16.7	17.2	17.8	18.3	
19	13.7	14.2	14.7	15.3	15.8	16.3	16.8	17.4	
20	13.0	13.5	14.0	14.5	15.0	15.5	16.0	16.5	
21	12.4	12.9	13.3	13.8	14.3	14.8	15.2	15.7	
22	11.8	12.3	12.7	13.2	13.6	14.1	14.5	15.0	
23	11.3	11.7	12.2	12.6	13.0	13.5	13.9	14.3	
24	10.8	11.2	11.7	12.1	12.5	12.9	13.3	13.8	
25	10.4	10.8	11.2	11.6	12.0	12.4	12.8	13.2	
26	10.0	10.4	10.8	11.1	11.5	11.9	12.3	12.7	
27	9.6	10.0	10.4	10.7	11.1	11.5	11.8	12.2	
28	9.3	9.6	10.0	10.4	10.7	11.1	11.4	11.8	
29	9.0	9.3	9.6	10.0	10.3	10.7	11.0	11.4	
30	8.7	9.0	9.3	9.7	10.0	10.3	10.7	11.0	
31	8.4	8.7	9.0	9.3	9.7	10.0	10.3	10.6	
32	8.1	8.4	8.7	9.1	9.4	9.7	10.0	10.3	
33	7.9	8.2	8.5	8.8	9.1	9.4	9.7	10.0	
34	7.6	7.9	8.2	8.5	8.8	9.1	9.4	9.7	
35	7.4	7.7	8.0	8.3	8.6	8.9	9.1	9.4	

The Employer's Contribution Rate Shall Be:

2.6% 2.7% 2.8% 2.9% 3.0% 3.1% 3.2% 3.3%

Provided, that when the amount in the Unemployment Compensation Fund on January 1 of the year for which rates are being computed is Two Hundred Million Dollars (\$200,000,000) or more and bears a percentage relationship of eight per cent (8%) or more to the total taxable wages for the preceding year, a reduction in tax rate by one-tenth of one per cent ( $\frac{1}{10}$  of 1%) for each Five Million Dollars (\$5,000,000) in the Fund which represents an excess over the amount in the Fund necessary to an eight per cent (8%) relationship between that Fund and the total taxable wages for the preceding calendar year shall be granted to all employers entitled to experience tax rate; provided further, that no employer shall be required to pay contributions at a rate greater than two and seven-tenths per cent (2.7%) nor permitted to pay contributions at a rate less than one-tenth of one per cent ( $\frac{1}{10}$  of 1%).

The Commission is authorized to extend the foregoing table by supplying additional employer's benefit wage ratios under the same mathe-

mathematical principles used in computing said table by dividing various state experience factors into successively higher contribution rates in one-tenth of one per cent ( $\frac{1}{10}$  of 1%) gradations and rounding off to the nearest one-tenth of one per cent ( $\frac{1}{10}$  of 1%). As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5C.

Effective Jan. 1, 1950.

(7) If, subsequent to the thirtieth day of June, 1949, an employing unit becomes an employer under the terms of subsection 19 (f) (2) of this Act,<sup>1</sup> or acquires a part of the organization, trade or business of an employer, such acquiring successor employing unit and such predecessor employer may jointly make written application to the Commission for that compensation experience of such predecessor employer which is attributable to the organization, trade or business or the part thereof acquired to be treated as compensation experience of such successor employing unit. The Commission shall approve such application if it finds that (i) the joint application was received by the Commission within one hundred eighty (180) days following the date of the acquisition; and (ii) immediately after such acquisition the successor employing unit continued operation of substantially the same organization, trade or business or part thereof acquired; and (iii) the predecessor employer has waived, in writing, all his rights to an experience rating based on the compensation experience attributable to the organization, trade or business or part thereof acquired by the successor employing unit; and (iv) in the event of the acquisition of only a part of a predecessor employer's organization, trade or business, such acquisition was of a part to which a definitely identifiable and segregable part of the predecessor's compensation experience was and is attributable; and (v) if the successor employing unit was not an employer at the time of the acquisition, such successor has elected to become an employer as of the date of the acquisition or has otherwise become an employer during the year in which the acquisition took place.

If the application for transfer of experience is approved and the successor employing unit was an employer immediately prior to the acquisition, such successor shall pay contributions from the date of the acquisition until the end of the calendar year in which the acquisition occurred at the rate applicable to the successor on the date of the acquisition. If such application is approved and the successor employing unit was not an employer immediately prior to the date of the acquisition, such successor shall pay contributions from the date of the acquisition until the end of the calendar year in which the acquisition occurred at the highest rate applicable at the time of the acquisition to any predecessor employer who was a party to the acquisition with respect to which the joint application was made.

In the event the acquisition is the result of the death of the predecessor employer, the requirements of this subsection relating to the necessity for the predecessor to join in the application and the requirements of condition (iii) hereof shall not apply.

"Compensation experience," as used in this subsection, includes duration of chargeability with benefit wages as well as all factors mentioned in subsection 7 (c) of this Section necessary to the computation of experience rating under subsection 7(c) of this Section. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5D.

<sup>1</sup> Article 5221b—17.

Effective July 1, 1949.



(d) Each employer's rate shall be two and seven-tenths (2- $\frac{7}{10}$ %) per centum except as otherwise provided in this Section. No employer's rate shall be less than two and seven-tenths (2- $\frac{7}{10}$ %) per centum unless and until his account has been chargeable with benefit wages throughout the thirty-six (36) consecutive calendar months immediately preceding the date as of which such employer's rate is determined.

Any provision of this Section, "Contributions," to the contrary notwithstanding, effective July 1, 1949, the experience rate for each employer who for the first time has completed thirty-six (36) consecutive calendar months of chargeability with benefit wages during a calendar year and prior to July 1 of such year shall be determined as of such July 1. The computation date for all other experience rates shall be as of January 1 of the year for which such rates are to be effective. All experience rates shall be effective as of the date of their determination for the remainder of the calendar year in which such computation date occurs. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5E.

Effective July 1, 1949.

#### Art. 5221b—6. Duration of coverage

(a) Any employing unit which is or becomes an employer subject to this Act<sup>1</sup> 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) of subsection 19(f)<sup>2</sup> 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 1949, 51st Leg., p. 283, ch. 148, § 6.

<sup>1</sup> Article 5221b—1 et seq.

<sup>2</sup> Article 5221b—17.

Effective Jan. 1, 1950.

**Art. 5221b—11. Unemployment Compensation Administration Fund**

(a) Special Fund: There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the Commission and shall be continuously available to the Commission for expenditure in accordance with the provisions of this Act,<sup>1</sup> and shall not lapse at any time or be transferred to any other fund. All moneys in this fund which are received from the Federal Government or any agency thereof shall be expended solely for the purposes and in the amounts found necessary by the Social Security Board or its successor for the proper and efficient administration of this Act. The fund shall consist of all moneys appropriated by this State; all moneys received from the United States of America, or any agency thereof; all moneys received from any other source for such purpose; all moneys collected by the Commission as costs or fees charged by the Commission for furnishing photostatic or certified copies of records of the Commission, or fees charged by the Commission for making audits pursuant to the authority granted in this Act, and shall also include any moneys received from any agency of the United States of America or any other State as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy or from other sources for losses sustained by the Unemployment Compensation Administration Fund, or by reason of damage to equipment or supplies purchased from moneys in such fund, and any proceeds realized from the sale or disposition of such equipment or supplies which may no longer be necessary for the proper administration of this Act. All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the Unemployment Compensation Administration Fund provided under this Act. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any Surety Bond for losses sustained by the Unemployment Compensation Administration Fund shall be deposited in said fund.

(b) The Commission is authorized to furnish to any person entitled thereto upon application therefor photostatic or certified copies of any records in its possession, the publication of which is not prohibited by this Act, and the Commission shall charge therefor a reasonable fee to be set by the Commission.

(c) Reimbursement of Fund: If any moneys received after June 30, 1941, from the Social Security Board or successor under Title III of the Social Security Act,<sup>2</sup> or any unencumbered balances in the Unemployment Compensation Administration Fund as of that date, or any other Federal Moneys granted to the Employment Commission for the administration of this Act, are found by the Social Security Board or successor because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the Social Security Board or successor for the proper administration of this Act, it is the policy of this State that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this State to the Unemployment Compensation Administration Fund for expenditure as provided in subsection (a) of this Section. Upon receipt of notice of such

a finding by the Social Security Board or successor the Commission shall promptly report the amount required for such reimbursement to the Governor and the Governor shall, at the earliest opportunity, submit to the Legislature a request for the appropriation of such amount. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 7.

<sup>1</sup> Article 5221b—1 et seq.

<sup>2</sup> 42 U.S.C.A. §§ 501-503.

Effective Oct. 1, 1949.

#### 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.<sup>1</sup>

(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" means the amount of benefits an individual would be entitled to receive for one benefit period of total unemployment.

(3) "Benefit period" means such period of seven (7) 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 and renamed Texas Employment Commission.

(d) "Contributions" means the money payments to the State Unemployment Compensation Fund required by this Act.

(e) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or, subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all purposes of this Act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(f) "Employer" means:

(1) Any employing unit which for some portion of a day but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or the preceding calendar year has or had in employment eight

(8) or more individuals (irrespective of whether the same individuals are or were employed in each such day);

(2) Any individual or employing unit which acquired the organization, trade, or business, or substantially all 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, having become an employer under paragraphs (1), (2), or (3) of this subsection, has not, under Section 8,<sup>2</sup> ceased to be an employer subject to this Act;

(5) For the effective period of its election pursuant to subsection 8(b) any other employing unit which has elected to become fully subject to this Act;

(6) Any employing unit which is liable for the payment of taxes under the Federal Unemployment Tax Act<sup>3</sup> 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 direction over the performance of such services both under his contract of such individual has been and will continue to be free from control or 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 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 subsection 11(b) of this Act<sup>4</sup> 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;

(B) Agricultural labor;

(C) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

(D) 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;

(E) 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;

(F) Service performed in any calendar quarter in the employ of any organization exempt from income tax under Section 101 of the Internal Revenue Code,<sup>5</sup> 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;

(G) 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;<sup>6</sup>

(H) 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 percent (85%) or more of the income consists of amounts col-

lected from members for the sole purpose of making such payments and meeting expenses;

(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 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;

(J) 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,<sup>5</sup> 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);

(K) Service performed in the employ of a foreign government (including wages as a consular or other officer or employee, or a nondiplomatic representative);

(L) 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;

(M) 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;

(N) 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;

(O) 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;

(P) 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;

(Q) 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 applica-

ble 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 or successor under Section 1603(c) of the Federal Internal Revenue Code,<sup>7</sup> 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 subsection 14(j) of this Act<sup>8</sup> 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 subsection 19(g) (5) (A).<sup>9</sup>

(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 Three Dollars (\$3) 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 subsection 4(a) of this Act. 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 Three Dollars (\$3) 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 Three Dollars (\$3) in any one benefit period is payable.

(m) "Valid claim" means a claim filed for benefits by an unemployed individual who has met the conditions provided in subsection 4(e) of this Act.<sup>10</sup>

(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 with respect to employment equal to Three Thousand Dollars (\$3,000) has been paid to an individual by an employer during any calendar year subsequent to December 31, 1949, is paid to such individual by such employer 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 Code<sup>11</sup> or (B) of any payment required from an employee under a State unemployment compensation law;

(4) Dismissal payments which the employer is not legally required to make; or

(5) Within any calendar year after December 31, 1948, that part of an individual's remuneration from a single employer which, after Three Thousand Dollars (\$3,000) has been paid him upon which contributions have been paid under the unemployment law of any state, is paid with respect to employment.

(o) "Week" means such period of seven (7) consecutive calendar days as the Commission may prescribe. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 8.

<sup>1</sup> Article 5221b—1 et seq.

<sup>2</sup> Article 5221b—6.

<sup>3</sup> 26 U.S.C.A. §§ 1600-1611.

<sup>4</sup> Article 5221b—9.

<sup>5</sup> 26 U.S.C.A. § 101.

<sup>6</sup> 26 U.S.C.A. § 1600.

<sup>7</sup> 26 U.S.C.A. § 1603.

<sup>8</sup> Article 5221b—12.

<sup>9</sup> Subsection (g) (5) (A) of this article.

<sup>10</sup> Article 5221b—2.

<sup>11</sup> 26 U.S.C.A. § 1400.

Effective Oct. 1, 1949.

#### Art. 5221b—22a. Unemployment compensation special administration fund

There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an Unemployment Compensation Special Administration Fund which may be used by the Commission for the purposes of paying costs of the administra-



tion of this Act<sup>1</sup> including the costs of construction and purchase of buildings and land necessary in such administration. The State Treasurer shall be the 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 the directions of the Commission. All interest and penalties collected under the provisions of this Act and all moneys now on deposit in the Unemployment Compensation Special Administration Fund 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.<sup>1</sup> 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 the 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. The State Treasurer shall be liable on his official bond 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 Act<sup>2</sup> 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. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 9.

<sup>1</sup> Article 5221b—1 et seq.

<sup>2</sup> Article 5221b—12.

Effective Oct. 1, 1949.

## TITLE 84—LANDLORD AND TENANT

## Art. 5222. 5475, 3235 Landlord's lien

Navigation district's lien for water furnished, application of arts. 5222-5239, see art. 3263h, § 52.

## TITLE 85—LANDS—ACQUISITION FOR PUBLIC USE

## 2. FEDERAL USE

Art.		5248h. Consent to acquisition of land for flood control [New].
5248g. Grant of portions of bed and banks of Rio Grande River to United States [New].	5248i. Consent to acquisition of land in Trinity watershed [New].	

## 2. FEDERAL USE

## Art. 5248. 5277, 376, 335 Exempt from taxation

The United States shall be secure in their possession and enjoyment of all lands acquired under the provisions of this title; and such lands and all improvements thereon shall be exempt from any taxation under the authority of this State so long as the same are held, owned, used and occupied by the United States for the purposes expressed in this title and not otherwise; provided, however, that any personal property located on said lands which is privately owned by any person, firm, association of persons or corporation shall be subject to taxation by this State and its political subdivisions; and provided, further, that any portion of said lands and improvements which is used and occupied by any person, firm, association of persons or corporation in its private capacity, or which is being used or occupied in the conduct of any private business or enterprise, shall be subject to taxation by this State and its political subdivisions. As amended Acts 1950, 51st Leg., 1st C.S., p. 105, ch. 37, § 1.

Emergency. Effective March 17, 1950.

Section 2 of the act of 1950 related to severability of the provisions of the act. Section 3 repealed conflicting laws and parts of laws to the extent of the conflict.

## Art. 5248g. Grant of portions of bed and banks of Rio Grande River to United States

Section 1. The Governor of the State of Texas is hereby authorized to grant to the United States of America in accordance with the conditions hereinafter set out, such of those portions of the bed and banks of the Rio Grande River in Hidalgo, Starr and Zapata Counties as may be necessary or expedient in the construction and use of the storage and flood control dams and their resultant reservoirs, diversion works, and appurtenances thereto, provided for in the Treaty between the United States of America and United Mexican States, concluded February 3, 1944.

Sec. 2. When the United States Commissioner, International Boundary and Water Commission, United States and Mexico, shall make application to the Governor of the State of Texas describing the area which is deemed necessary or expedient for use under said Treaty, the Governor shall issue a grant for and on behalf of the State of Texas to the United States of America conveying to it the area described in

the application, which said grant shall reserve unto the State of Texas all minerals except rock, sand and gravel needed by the United States in the operation or construction by the United States or its agents of any of the works described in Section 1 of this Act subject to the proviso that the minerals so reserved to the State shall not be explored for, developed or produced in a manner which will at any time prevent or interfere with the operation or construction by the United States of America of any of the works described in Section 1 of this Act; and providing further, that prior to exploring for or developing such reserved minerals the written consent and approval of the United States Section, International Boundary and Water Commission, United States and Mexico, or its successor agency, shall be obtained as to the proposed area sought to be explored or developed by the State of Texas, including, but not by way of limitation, the location of and production facilities for oil and/or gas wells. Successive applications may be made by the said United States Commissioner, and successive grants may be made to the United States of America by the Governor for and on behalf of the State of Texas, embracing various tracts within the limits herein specified, and no time limit shall be imposed upon such grants; provided, however, that nothing herein shall be construed as divesting, limiting, or otherwise affecting the property rights, including, but not by way of limitation, the riparian rights, under the laws of the State of Texas, of the private owners of land abutting the Rio Grande River in the counties herein referred to. The authority herein granted to the Governor of the State of Texas extends only to the bed and banks of the Rio Grande River to the extent that title to such bed and banks is by law vested in the State of Texas whether under the civil law, or common law, or Court decisions of the State of Texas, or otherwise; provided, however, that any grant or grants made to the United States of America in accordance with this authority shall contain a reservation that in the event any part of the property so granted shall ever cease to be used for the purposes set out within this Act for a continuous period of five years after the beginning of such use, the part or parts of said property which are not so used shall immediately and automatically revert to the State of Texas after the expiration of said five year period. Acts 1949, 51st Leg., p. 902, ch. 483.

Emergency. Effective June 30, 1949.

#### Art. 5248h. Consent to acquisition of land for flood control

Section 1. The consent of the State of Texas is hereby given to the acquisition by the United States by purchase, gift, or condemnation with adequate compensation, of such lands, or any right or interest therein, in Texas as in the opinion of the Government of the United States may be needed for programs and works of improvement for run-off and water-flow retardation and soil erosion prevention, or other purposes, in the interest of flood control, within the State. Provided, that such lands may be acquired subject to reservations of rights-of-way, timber, minerals, and easements; provided further, that one (1%) per cent of the purchase price be remitted per annum in lieu of taxes to the County and School Districts. Provided further, that nothing herein shall be construed as consenting to the acquisition of any lands by condemnation unless the apparent owner of such lands shall have consented to such acquisition; and provided further, that the State shall retain a concurrent jurisdiction with the United States in and over lands so acquired so far that civil process in all cases, and such criminal process as may issue under the authority of the State against any person charged with the commission

of any crime without or within said jurisdiction, may be executed thereon in like manner as if this Act had not passed.

Sec. 2. Power is hereby conferred upon the Congress of the United States to pass such laws and to make or provide for the making of such rules and regulations of both a civil and criminal nature, and to provide punishment for the violation thereof, as in its judgment may be necessary for the administration, control and protection of such lands as may be from time to time acquired by the United States under the provisions of this Act.

Nothing contained in this Act shall be applicable to any county or counties in Texas except the counties in the Trinity Watershed lying wholly within the 22nd Senatorial District. Acts 1949, 51st Leg., p. 1092, ch. 555.

Effective 90 days after July 6, 1949, date of adjournment.

**Title of Act:**

An Act granting the consent of the State of Texas to the acquisition by the United States of land in the State needed for programs and works of improvement in the

interest of flood control; providing that this Act shall apply only to the counties in the Trinity Watershed lying wholly within the 22nd Senatorial District; and declaring an emergency. Acts 1949, 51st Leg., p. 1092, ch. 555.

**Art. 5248i. Consent to acquisition of land in Trinity watershed**

Section 1. The consent of the State of Texas is hereby given to the acquisition by the United States by purchase, gift, or condemnation with adequate compensation, of such lands, or any right or interest therein, in Texas, as in the opinion of the Government of the United States may be needed for programs and works of improvement for run-off and water-flow retardation and soil erosion prevention, or other purposes, in the interest of flood control, within the State. Provided that such lands may be acquired subject to reservations of rights-of-way, timber, minerals, and easements; provided further, that one (1%) per cent of the purchase price be remitted per annum in lieu of taxes to the County and School Districts. Provided further, that nothing herein shall be construed as consenting to the acquisition of any lands by condemnation unless the apparent owner of such lands shall have consented to such acquisition; and provided further, that the State shall retain a concurrent jurisdiction with the United States in and over lands so acquired so far that civil process in all cases, and such criminal process as may issue under the authority of the State against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this Act had not passed.

Sec. 2. Power is hereby conferred upon the Congress of the United States to pass such laws and to make or provide for the making of such rules and regulations of both a civil and criminal nature, and to provide punishment for the violation thereof, as in its judgment may be necessary for the administration, control and protection of such lands as may be from time to time acquired by the United States under the provisions of this Act.

Nothing contained in this Act shall be applicable to any county or counties in Texas except that portion of the Trinity Watershed lying within Cooke, Grayson, Fannin, Collin, Hunt, Rockwall, Kaufman, Van Zandt, Dallas and Tarrant Counties. Acts 1950, 51st Leg., 1st C.S., p. 88, ch. 25.

Emergency. Effective March 17, 1950.

## TITLE 86—LANDS—PUBLIC

## CHAPTER THREE—SURFACE AND TIMBER RIGHTS

## 2. SALES

Art.

5326h. Reinstatement of original purchases of land in Fisher county [New].

5326i. Reinstatement of purchases in Hutchinson county [New].

## 2. SALES

**Art. 5326h. Reinstatement of original purchases of land in Fisher county**

In cases where lands belonging to the Public Free School Fund located in Fisher County stand forfeited on the records of the General Land Office and said forfeitures having been made by the Commissioner of the General Land Office prior to September 1, 1941 and where there is no intervening rights of a third person, the said forfeitures may be set aside and the original purchases reinstated upon payment of all moneys due and owing on such land including interest and principal; providing the owners at the time of said forfeitures or their assigns shall have filed their applications for reinstatement prior to April 15, 1949. Acts 1949, 51st Leg., p. 318, ch. 151, § 1.

Emergency. Effective May 12, 1949.

Title of Act:

An Act authorizing the Commissioner of the General Land Office to reinstate sales of land in Fisher County forfeited prior to September 1, 1941 and on which applications have been filed for reinstatement pri-

or to April 15, 1949, and on which there are no intervening rights of a third person; providing that payment of all principal and interest shall be made prior to reinstatement; and declaring an emergency. Acts 1949, 51st Leg., p. 318, ch. 151.

**Art. 5326i. Reinstatement of purchases in Hutchinson county**

Section 1. In cases where lands belonging to the Public Free School Funds located in Hutchinson County, Texas, stand forfeited on the records of the General Land Office, and where said forfeitures have been made by the Commissioner of the General Land Office after September 1, 1942, and prior to February 1, 1943, and where such lands have been used or occupied by the original purchaser of said lands from the State of Texas for a continuous period of twenty-seven years or more, the said forfeitures may be set aside and the original purchases re-instated by the said Commissioner upon the payment of all moneys due and owing on such land, including interest and principal; providing that such re-instatement shall not be effective as to any intervening rights of third parties.

Sec. 2. In cases where lands belonging to the Public Free School Fund located in Hardeman County stand forfeited on the records of the General Land Office and said forfeitures having been made by the Commissioner of the General Land Office prior to September 25, 1943, and after January 1, 1943, and where the lands have been improved by the present occupant or user to the extent of One Hundred (\$100.00) Dollars or more, the said forfeitures may be set aside and the original purchases re-instated by the said Commissioner upon payment of all moneys due and owing on such land, including interest and principal; providing that such re-instatement shall not be effective as to any intervening rights of third parties.

Sec. 3. If any section, sub-section, clause, sentence, or provision of this Act, for any reason, be held to be invalid or unconstitutional, it shall not affect in any wise the remaining provisions of this Act not so held, and all that portion not so held invalid shall remain in full force and effect; it being the express intention of the Legislature to enact such Act without respect to such section, sub-section, clause, sentence, or provision, or a part thereof, so held to be invalid or unconstitutional. Acts 1950, 51st Leg., 1st C.S., p. 84, ch. 21.

Emergency. Effective March 17, 1950.

## CHAPTER FOUR—OIL AND GAS

### 4. GENERAL PROVISIONS

Art.

5382b. Surveys and investigations of areas within tidewater limits [New].

### 3. SOLD ASYLUM AND SCHOOL LANDS

Art. 5368b. Repealed. Acts 1949, 51st Leg., p. 477, ch. 259, § 4. Eff. 90 days after July 6, 1949, date of adjournment

Pooling and cooperative agreements in secondary recovery operations, see art. 6008b.

Art. 5369. Offset wells

If oil and/or gas should be discovered in commercial quantities on lands not included in this law and within one thousand (1,000) feet of and draining land that is so included, or in any case where land so included in this law is being drained by production of oil or gas from land not so included, the owner, lessee, sub-lessee, receiver or other agent in control of land included herein shall in good faith begin the drilling of a well or wells upon such land within one hundred (100) days after such well or wells on lands not so included commence to produce in commercial quantities, and shall prosecute such drilling with diligence to reasonably develop the land included hereunder and to protect such land against drainage by wells on other lands in the locality. As amended Acts 1949, 51st Leg., p. 881, ch. 474, § 1; Acts 1949, 51st Leg., p. 1096, ch. 559, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

Section 2 of the amendatory acts of 1949, provided that if any clause, sentence, paragraph or section of this Act is declared

invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Act shall nevertheless remain in full force and effect.

Art. 5370. Failure to drill offset

If such persons fail or refuse to begin the drilling of such well or wells within the time required or to prosecute such drilling as necessary for the purpose intended herein, any lease of such land executed under the provisions of this law shall be subject to forfeiture by the Commissioner of the General Land Office, and he shall forfeit same when he is sufficiently informed of the facts which authorize a forfeiture, and shall, on the wrapper containing the papers relating to such lease, write and sign officially words declaring such forfeiture, and the lease and all rights thereunder shall thereupon be forfeited together with all payments made thereunder. Notice of such action shall forthwith be mailed to the persons shown by the records of the General Land Office to be the owners

of the surface and the owners of the forfeited lease at their last known addresses as shown by the records of said office. Upon proper showing by the owner of the forfeited lease within thirty (30) days after the declaration of forfeiture, the lease may, at the discretion of the Commissioner and upon the terms of this Act and such other terms as he may prescribe, be re-instated. If such lease be not re-instated within such time, or if the Commissioner finds that any unleased land included in this law is being drained, the Commissioner shall notify the person at his last known address, as shown by records of the General Land Office to be the surface owner, that the oil and gas is subject to sale or lease to the owner of the soil in accordance with this law, and that drilling is required. If such owner shall fail or refuse to obtain the commencement of such a well within one hundred (100) days after the date of such notice, the relinquishment herein granted and the rights acquired thereunder shall be subject to forfeiture by the Commissioner by endorsing on the file wrapper containing the papers relating to the sale of the land, words indicating such forfeiture, and such rights shall thereupon be forfeited, and notice of such forfeiture shall be forwarded to the County Clerk of the county wherein the land is situated. The rights of any owner of the soil which may have ipso facto terminated under prior laws shall be re-instated and are hereby re-instated, together with all rights acquired thereunder except where rights of third parties may have intervened. All rights herein re-instated shall be subject to the terms and provisions of this Act. As amended Acts 1949, 51st Leg., p. 881, ch. 474, § 1; Acts 1949, 51st Leg., p. 1096, ch. 559, § 1.

#### Art. 5371. Lease of oil and gas after forfeiture

When the relinquishment herein granted has been so forfeited by the Commissioner, the land shall be subject to lease for oil and gas under the procedure provided by law for the leasing of unsold surveyed public school lands. No lease shall be executed which provides for a royalty of less than one-eighth ( $\frac{1}{8}$ ), payable to the State for the benefit of the Permanent Free School Fund, and the lessee shall in every case pay to the surface owner amounts equal to the bonus money and the delay rentals paid to the State, and in case of production such lessee shall pay to the surface owner amounts equal to one-half ( $\frac{1}{2}$ ) of all royalty above the reserved one-eighth ( $\frac{1}{8}$ ). Upon the termination or expiration of a lease so executed by the Commissioner of the General Land Office, or if no acceptable offer is received for such lease after due advertisement, the rights of the surface owner to act under this law shall be ipso facto re-instated. As amended Acts 1949, 51st Leg., p. 881, ch. 474, § 1; Acts 1949, 51st Leg., p. 1096, ch. 559, § 1.

### 4. GENERAL PROVISIONS

#### Art. 5382b. Surveys and investigations of areas within tidewater limits

##### Areas within tidewater limits defined

Section 1. When used in this Act the term "areas within tidewater limits" means islands, salt water lakes, bays, inlets, marshes and reefs within tidewater limits and that portion of the Gulf of Mexico within the jurisdiction of Texas.

##### Commissioner defined

Sec. 2. When used in this Act the word "Commissioner" means "The Commissioner of the General Land Office."

**Permits for surveys and investigations**

Sec. 3. The Commissioner is hereby authorized to issue permits for geological, geophysical and other surveys and investigations of areas within tidewater limits which are not then subject to valid and subsisting oil and gas leases executed by the State of Texas; provided, however, that any person owning a valid and subsisting oil and gas lease executed by the State of Texas, or having permission from the owner of such lease, shall be entitled to conduct such geological, geophysical and other surveys and investigations on the areas included therein without obtaining a permit, but such surveys and investigations shall be conducted in accordance with the rules and regulations promulgated by the Commissioner.

**Rules and regulations**

Sec. 4. All geological, geophysical and other surveys and investigations on areas within tidewater limits shall be made under such rules and regulations as the Commissioner may promulgate to prevent the unnecessary pollution of waters, destruction of fish, oysters and other marine life, and obstruction of navigation. It shall be the duty of the Commissioner to follow the recommendation of the Game, Fish and Oyster Commission to prevent unnecessary pollution of waters, destruction of fish, oysters, and other marine life, and obstruction of navigation.

**Deposits and payments**

Sec. 5. Before any permit is issued on unleased areas within tidewater limits the applicant for such permit shall deposit with the Commissioner a sum of money equal to Fifty Dollars (\$50) per day for the term for which it is desired that the permit be issued. A separate permit shall be obtained and deposit made for each geological or geophysical party or part thereof engaged in making surveys and investigations. All deposits shall be held by the Commissioner in a special trust fund until the survey or investigation has been completed and the permittee has filed with the Commissioner a report under oath of the number of days during which the actual work of such surveys or investigations was conducted on the area covered by the permit. Thereafter, the Commissioner shall deposit in the State Treasury for the Permanent School Fund a sum equal to Fifty Dollars (\$50) per day for the number of days during which the actual work of such survey and investigation was so conducted. The remaining portion of the deposit shall be returned to the applicant who made same.

The Commissioner or the Attorney General shall make demand for payment at the same rate per day from any person, firm or corporation which has heretofore conducted or may hereafter conduct such surveys on areas described herein without a permit or lease from the State. Upon refusal to pay, the Attorney General shall institute suit for such sums, or for the reasonable value of the privilege exercised, as damages for the unauthorized use of such property.

**Unlawful surveys and investigations; explosives**

Sec. 6. It shall be unlawful for any person to conduct geological, geophysical and other surveys and investigations on areas within tidewater limits without having permit therefor, or without being the owner of the oil and gas leasehold estate thereon, or having permission from the owner thereof. It shall be lawful for the owner of any oil and gas leasehold estate on areas within tidewater limits, or for any person having permission from such owner, or for any person holding a permit issued here-



under, to use all reasonable methods including but not limited to the use of explosives in making such surveys and investigations.

**Violations of act**

Sec. 7. Any person violating any provision of this Act or any provision of any permit issued hereunder, or any rule or regulation promulgated by the Commissioner, shall be deemed guilty of a misdemeanor and upon a conviction in a court of competent jurisdiction shall be subject to a fine of not less than One Hundred Dollars (\$100) and not more than One Thousand Dollars (\$1,000), and each day of such violation shall be considered a separate offense.

**Offering for lease**

Sec. 7a. All areas within tidewater limits shall be offered for lease in accordance with existing laws except that such areas shall be advertised for a period of not less than sixty (60) days prior to the lease sale date.

**Partial invalidity**

Sec. 9. 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 1949, 51st Leg., p. 603, ch. 321.

Emergency. Effective June 6, 1949.

Section 8 of the Act of 1949 repealed all conflicting laws and parts of laws.

## CHAPTER SEVEN—GENERAL PROVISIONS

Art.

5421m. Veterans' Land Board [New].

### Art. 5421m. Veterans' Land Board

**Constitutional provision**

**Section 1.**

Section 1 of this Act recited the adoption of the amendment to Article 3 of the Constitution, adding § 49-b, relating to the Veterans' Land Board.

**State agency; meaning of "board"**

Sec. 2. The Veterans' Land Board is hereby declared to be a state agency for performing the governmental function authorized in Section 49-b of Article III of the Constitution of the state, and where the term "Board" is referred to in this Act, it shall mean the Veterans' Land Board.

**Bond issue**

Sec. 3. The Board, by appropriate action, is hereby authorized at one time, or from time to time, to provide by resolution for the issuance of negotiable bonds, which in no event shall exceed the aggregate sum of Twenty-five Million (\$25,000,000.00) Dollars. The proceeds from the sale of any bond, or bonds, shall be used for the purpose of creating the Veterans' Land Fund provided for in the Constitution. At the option of the Board, said bonds may be issued in one (1) or several installments. The bonds of each issue shall be dated, and shall bear interest at a rate not exceeding three (3%) per centum per annum, which interest may, at the option of the Board, be payable annually or semi-annually; shall

mature serially or otherwise not sooner than eight (8) years from the effective date of the Constitutional Amendment referred to in Section 1 of this Act, and not later than forty (40) years from their date; shall be payable in such medium of payment as to both principal and interest as may be determined by the Board; and may be made redeemable before maturity, at the option of the Board, at such price or prices, and under such terms and conditions as may be fixed by the Board in the resolution providing for the issuance of the bonds. The Board shall determine the form of the bonds, including the forms of any interest coupon to be attached thereto, and shall fix the denomination or denominations of said bonds and the place, or places of the payment of principal and interest thereon. Said bonds shall be executed on behalf of the Board by the Chairman and Secretary thereof and such bonds shall have impressed thereon the seal of the Board. Interest coupons may be signed by the facsimile signatures of the Chairman and Secretary of the Board. In the event any officer whose signature appears on any bond, or whose facsimile signature shall appear on any coupon, shall cease to be such officer before the delivery of bonds, the signature shall, nevertheless, be valid and sufficient for all purposes, the same as if he had remained in office until such delivery had been made. Before any such bonds so issued are delivered to the purchasers, the record pertaining thereto shall have been examined by the Attorney General and said record and bonds shall be approved by the Attorney General. After such approval, the bonds shall be registered in the office of the Comptroller of Public Accounts. Such bonds having been approved by the Attorney General, registered in the Comptroller's Office, shall be held, in every action, suit, or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such bonds or any rights incident thereto, the certificate of approval by the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of their validity. The only defense which can be offered against the validity of such bonds shall be forgery or fraud. All bonds issued under the provisions of this Act shall have, and are hereby declared to have, all of the qualities and incidents of negotiable instruments under the laws of this state. The Board is fully authorized to provide for the replacement of any bond which might have become mutilated, lost or destroyed.

#### **Refunding bonds**

Sec. 4. The Board is hereby authorized to provide by resolution for the issue of refunding bonds for the purposes of refunding any bonds issued under the provisions of this Act and then outstanding, together with accrued interest thereon. The issuance of such refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the Board in respect to the same, shall be governed by the foregoing provisions of this Act insofar as the same may be applicable.

#### **Notice of preferential right to purchase bonds**

Sec. 5. The preferential right of purchase of any such bonds when offered for sale given in the Constitution to the administrators of the various teacher retirement funds, the Permanent University Funds, and the Permanent Free School Fund shall be made known to the proper administrators of said funds by written notice thereof immediately after any of such bonds are offered for sale.

**Call for bids; bids accompanied by exchange or check**

Sec. 6. When the Board shall have authorized the issuance of a series of said bonds and shall have determined to call for bids therefor, it shall be the duty of the Board to publish at least one (1) time not less than twenty (20) days before the date of said sale an appropriate notice thereof. Such publication shall be made in a daily newspaper of general state-wide circulation which is published not less than seven (7) times weekly. Said notice shall also be published for such number of times as the Board may determine in one or more popularly recognized financial journals of general circulation.

The Board may at its option demand of bidders, other than the administrators of the state funds herein mentioned, that their bids be accompanied by exchange or bank cashier's check for such sum as it may consider adequate to be a forfeit guaranteeing the acceptance and payment for all bonds covered by such bids, and accepted by the Board.

**Sale of bonds; prorating**

Sec. 7. None of said bonds shall be sold for less than their face value with accrued interest from their date, and all of such bonds shall be sold after competitive bidding to the highest and best bidder, except in those cases where the administrators of the state's funds given priority exercise, within fifteen (15) days after notice thereof, their right of priority to take such bonds at the highest price bid by another. If two or more of said administrators desire to exercise their right to purchase said bonds, the Board shall pro-rate same to said administrators who desire to make said purchase.

**Veterans' land fund**

Sec. 8. All moneys received by the Board for the sale of any bond or bonds shall be deposited forthwith in the State Treasury to the credit of the Veterans' Land Fund; and in like manner all moneys received by the Board from purchasers of land, from the sale of mineral leases, or moneys received as rental or royalty under such leases, and all other income received from said land, and all funds received as interest paid by such purchasers, and sums received by the Board by way of indemnity or forfeiture for the failure of any bidder for the purchase of bonds to comply with his bid and accept and pay for said bonds bid in by him, shall be deposited with the State Treasurer to the credit of said Veterans' Land Fund.

All lands previously sold by the Board, upon any re-possession for any cause by the acts of the purchasers or any other lawful reasons, shall again become a part of said Veterans' Land Fund.

**Payment of principal and interest**

Sec. 9. Each year for the first eight (8) years from the effective date of the Constitutional Amendment referred to in Section 1 of this Act, there shall be set aside and paid from the Veterans' Land Fund sufficient moneys to pay interest on all the bonds theretofore issued and outstanding. After eight (8) years from the effective date of said Constitutional Amendment, all moneys received by the Veterans' Land Board under the terms of this Act, or so much thereof as may be necessary, shall be set aside and used to pay principal and interest on bonds then outstanding as they shall mature. When there is in the Veterans' Land Fund an amount fully sufficient to pay all interest on, and principal of, the outstanding bonds due and to become due thereafter, any moneys in excess

of such amount shall be deposited to the credit of the General Fund of the State of Texas to be appropriated to such purposes as may be prescribed by law. The moneys so set aside and not deposited to the credit of the General Revenue Fund may be invested by the Board in bonds of the United States, or the State of Texas, or of the several counties or municipalities or other political subdivisions of the State of Texas, and such Board may sell such bonds, or any of them, at the governing market rate.

Said Board may, if it so desires, designate the Treasurer of this state as fiscal agent for the payment of principal of and interest on the bonds; if said Treasurer is so designated he shall act without compensation.

If said Board, at any time during the existence of said Veterans' Land Fund, shall determine that during the following biennium there will not be sufficient moneys in said Fund to pay principal of and/or interest on said bonds which will fall due during the said following biennium, the Legislature shall appropriate from the General Fund of the state sufficient moneys to meet such obligation, such appropriated moneys to be used for said purposes only if at the time said principal and/or interest actually fall due there are not sufficient moneys in the Veterans' Land Fund to pay same.

#### Use of fund to purchase lands

Sec. 10. During the first eight (8) years from the effective date of the amendment to the State Constitution referred to in Section 1 of this Act, the Veterans' Land Fund, except a sufficient amount to pay the interest on outstanding bonds, shall be used by the Board for the purpose of purchasing land situated in this state, and (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; (c) owned by any person, firm, or corporation. The said land so purchased to be sold, as hereinafter provided, to Texas veterans, as hereinafter defined.

#### Price of land; payment; title

Sec. 11. All land purchased by the Board shall be acquired at the lowest price obtainable in the opinion of said Board, taking into consideration the quality, location, natural advantages and improvements of such land, and shall be paid for in cash and shall be clear of all liens and shall constitute a part of the Veterans' Land Fund. It shall be the duty of the Board, before making payment for any land, to have the title of the property sought to be bought, examined and may require for this purpose an abstract of this title or a policy of title insurance, and may refer the same to the Attorney General for this examination and opinion. Such purchase may be made of land subject to an outstanding oil, gas and other mineral royalty interest, provided said outstanding interest is not more than one-half ( $\frac{1}{2}$ ) of the oil, gas and other minerals therein; and the Board may also purchase lands which are subject to outstanding mineral leases if the purchase includes not less than one-half ( $\frac{1}{2}$ ) of the reversionary right in the minerals and not less than one-sixteenth ( $\frac{1}{16}$ ) royalty therein, if such title be otherwise good and merchantable.

#### Subdivision of land; notice of sale; preference of disabled veterans

Sec. 12. Land acquired by the Board may be subdivided for the purpose of sale into tracts of such size as the Board may deem advisable; but prior to the sale thereof in bulk or in subdivided lots, notice of sale must be given once a week for four (4) consecutive weeks in one or more

newspapers of general circulation in this state, one of which shall be in the county where the land is located; or if no paper is located in the county, then in the same area. The Board is authorized to determine the form and substance of such notices, and to formulate such other rules and regulations covering the sale of lands as it may require in carrying out the purposes of this Act; provided that all "veterans" as that term is hereinafter defined, who are disabled by reason of a service-connected disability sustained in combat, shall have a preference right over all other veterans for ninety (90) days to purchase any of said land after same is placed on the market by the Board.

**Selling price; amount which veteran may purchase**

Sec. 13. In no event shall land be sold at less than its actual cost to the Board, and no veteran shall be permitted by the Board to purchase more than one (1) tract of land under this Act; and once such veteran has obtained the benefits to be derived hereunder, he will not be permitted to apply again for such benefits. The Board may not offer for sale, and no veteran will be permitted to buy, land which cost the Board more than Seven Thousand, Five Hundred (\$7,500.00) Dollars.

**Veteran defined**

Sec. 14. The term "veteran" as used in this Act, and the phrase "Texas veteran of the present war or wars, commonly known as World War II", as used in Section 49-b of Article III of the Constitution shall be synonymous, and shall be construed for the purpose of this Act to mean any citizen of the United States, male or female, over eighteen (18) years of age, who served not less than ninety (90) days, unless sooner discharged because of a service-connected disability, on active duty in the Army, Navy, Coast Guard or Marine Corps of the United States between September 16, 1940, and December 31, 1946, and who was not dishonorably discharged from the branch of the service in which he or she served, and who at the time of his or her enlistment, induction, commission or drafting was a bona fide resident of this state, and who at the time of seeking the benefits of this Act is a bona fide resident of this state.

**Proof and investigation of eligibility**

Sec. 15. Any person deeming himself a veteran as defined herein, and desiring to benefit hereunder, shall submit to the Board information on such forms as may be prescribed, that will enable the Board to determine his eligibility and qualifications. The Board may make such inquiries and investigation as it deems proper in order to determine such eligibility and qualifications.

**Purchase of land selected by veteran**

Sec. 16. Anything contained in this Act to the contrary notwithstanding, it is expressly provided that where the veteran desires a particular tract of land located in this state which he can purchase for not exceeding Ten Thousand (\$10,000.00) Dollars, he may, upon proper showing of eligibility to benefits hereunder, be authorized by the Board to select the land which he desires and submit his selection to such Board on such form as it may prescribe. The Board may purchase such land from the owner thereof upon the terms agreed, if the Board is satisfied of the value and desirability of the property submitted, and pay not to exceed Seven Thousand, Five Hundred (\$7,500.00) Dollars of the purchase price, provided the veteran pays cash for all the purchase price over Seven Thousand, Five Hundred (\$7,500.00) Dollars. The Board

shall make such appraisal of the property as it deems necessary in order to determine value, and before consummating a purchase shall satisfy itself as to title, as provided in Section 10 of this Act. The property so acquired shall become a part of the Veterans' Land Fund, but the veteran who has selected the land so acquired shall have a preference right to purchase the same from the Board. The rules and regulations governing the sale of land under this Section shall be governed by the provisions hereinafter made with reference to sale of land generally by the Board, except where same conflicts with this Section. In order to be entitled to such preference right, the veteran shall, before the Board purchases said land, have agreed, in writing, to purchase said selected land from the Board at the purchase cost to the Board, and shall have deposited five (5%) per cent of the purchase price with the Board, which deposited money shall be by the Board deposited with the State Treasurer in a suspense account to be held until the title of said land is approved and accepted by the Board, at which time said deposit shall be applied to the down payment on the contract of sale and purchase of land by said veteran. If the title to said land is not approved and accepted by the Board, said deposit by the veteran shall be returned to him. Provided however, that any "veteran" as that term is herein defined, who is disabled by reason of a service-connected disability sustained in combat, shall have a preference right over all other veterans for ninety (90) days to purchase any of said land after same is placed on the market by the Board under the provisions of this Section.

**Contract of sale; payments; transfer; deed**

Sec. 17. The sale of all lands hereunder by the Board may be properly initiated by contract of sale and purchase, and said contract shall be recorded in the deed records in the county where the land is located. The purchaser shall make an initial payment of at least five (5%) per cent of the selling price of the property. The balance of said selling price shall be amortized over a period to be fixed by the Board, but not exceeding forty (40) years, together with interest thereon at the rate of three (3%) per cent per annum; provided, however, that the purchaser shall have the right on any installment date to pay any or all installments still remaining unpaid; provided, further, that in any individual case the Board may for good cause postpone from time to time, upon such terms as the Board may deem proper, the payment of the whole or any part of any installment of the selling price or interest thereon. The Board is empowered in each individual case to specify the terms of the contract entered into with the purchaser, not contrary to the provisions of this Act; but no property sold under the provisions of this Act shall be transferred, sold, or conveyed, in whole or in part, until the purchaser has enjoyed possession for a period of three (3) years from the date of purchase of said property, and complied with all the terms and conditions of this Act and the rules and regulations of the Board. When the entire indebtedness due the state under the contract of sale is paid, the Board shall execute a deed under its seal to the original purchaser of the land, which deed shall inure to the benefit of the legal owner of said land.

**Oil and gas leases**

Sec. 18. If at any time, while the veteran is indebted to the Board for the land purchased, he should execute an oil and gas lease covering such land, at least one-half (1/2) of all bonus money received as consideration and one-half (1/2) of all delay rentals paid under such lease (or so much thereof as may be required) shall be paid to the Board and

applied by it toward the satisfaction of said indebtedness. The lease made by the veteran will be of no force or effect until the Board has received its portion thereof, as herein provided.

#### **Forfeiture of contracts**

Sec. 19. In the event that any portion of the interest or principal on any sale should not be paid when due, the contract of sale and purchase shall be subject to forfeiture by the Board, and such forfeiture shall be effective when the Board shall have met and passed a resolution directing the Chairman of the Board to endorse upon the wrapper containing the papers of said sale, or upon the purchase contract filed in the Land Office, the word "forfeited," or words of similar import, with the date of such action, and to sign officially; thereupon the lands and all payments theretofore made shall become forfeited. A notice of the action of the Board in forfeiting the original contract shall be mailed to the County Clerk of the county wherein the land is located, and the said Clerk shall enter on the margin of the page or pages containing the record of the original contract, a notation of such forfeiture. Lands included in such forfeited contract shall be subject to resale under the same terms and conditions as though said lands had not theretofore been sold. In any case where the sale has been forfeited and the title to the lands revested in the Veteran's Land Fund, the original purchaser or his vendee shall have the right to reinstate his claim in the purchase contract at any time prior to the date on which the Board shall have met and ordered the said lands to be advertised for resale, or for lease for mineral development, but not thereafter. Any person exercising a right of reinstatement shall pay all interest, penalties and costs incident to the reinstatement, as shall be prescribed by the said Board. All interest and principal which shall become delinquent shall bear penal interest at the rate of five (5%) per cent per annum from the date the same becomes delinquent, until paid.

#### **Heirs, devisees and personal representatives**

Sec. 20. If the purchaser dies indebted to the Board under contracted purchase, his rights acquired under this Act and such contract shall devolve upon his heirs, devisees or personal representatives, pursuant to the laws of the State of Texas, but subject to all rights, claims and charges of the Board. Default on the part of such heir, devisee or personal representative with respect to any right, claim or charge of the Board shall have the same effect as would default on the part of the purchaser, but for his death.

#### **Rules and regulations; forms; forfeitures**

Sec. 21. The Board is hereby authorized and empowered to make and promulgate such rules and regulations under this Act as they shall deem to be necessary or advisable, and to enforce the same. It shall likewise have the power to prescribe the form and contents of all notices, bids, applications, awards, contracts, deeds, or instruments whatsoever in any manner used by it in so carrying out such project and plan when the same shall not be in conflict with law. The Board is hereby made the sole judge of forfeiture of any purchase contract under this Act, and anyone availing of the provisions of this Act shall by so doing agree to abide by the same; and should the Board declare a forfeiture under said purchase contract, then the purchaser hereby agrees to vacate the premises within thirty (30) days after receipt of notice of such declaration.

**Leases by board**

Sec. 22. The Board shall have the power and authority to lease any property which it owns, upon such terms as it may deem proper; providing said lease, as to agricultural and grazing purposes, shall be subject to cancellation upon the sale of said property to any veteran. The Board is authorized and empowered to execute oil, gas, and mineral leases upon any of the land which it may purchase, prior to the sale thereof, by following the same procedure as provided for the School Land Board on leases of Public School Lands.

**Lands unsold after eight years**

Sec. 23. Any lands of the Fund remaining unsold at the expiration of eight (8) years after the effective date of the amendment to the Constitution above mentioned, may be sold to anyone in such manner, at such price, and upon such terms as at said time shall be prescribed by law.

**Supplies for board**

Sec. 24. The Board is hereby specifically authorized to purchase through the State Board of Control any and all supplies including, but not by way of limitation, stationery, stamps, printing, record books, and such other things as may be needed, at state expense, in order to carry on its functions as a state agency in the performance of the duties herein imposed upon it.

**Meetings of board; secretaries; seal; employees**

Sec. 25. The Board shall meet on the first and third Tuesdays of each month in the General Land Office, where its sessions shall be held and continue until its docket is cleared, subject to recesses at the discretion of the Board. The Chairman of the Board may call a special meeting of same at any time he thinks necessary, by giving the other members notice thereof. The Board shall select an Executive Secretary and an Assistant Executive Secretary, each of whom shall be nominated by the Commissioner of the General Land Office and approved by a majority of the Board, who shall perform all duties required of them by said Board. The Board shall procure and adopt a seal bearing the words "Veterans Land Board" encircled by the oak and olive branches, common to other official seals. The Commissioner of the General Land Office is authorized to employ all other employees which may be necessary for the discharge of the duties of the Board, such as stenographers, typists, bookkeepers, surveyors, appraisers, and any and all other employees, in such number and for such time as may be necessary to the performance of their duties. The employees of the Board shall be deemed to be employees of the General Land Office, and all civil and criminal laws regulating the conduct and relations of the employees of the General Land Office shall apply in all things to the employees of the Board. All papers, records, and archives of the Board shall be deposited and kept in the General Land Office.

**Compensation and duties of employees**

Sec. 26. All employees of the Board shall be paid compensation until the effective date of the next general Departmental Appropriation Act covering the Veterans' Land Board shall become effective, at a rate comparable with the rate being paid by the state to other state employees doing the same type of work. All such employees shall be paid their



compensation and perform their duties with the same rules, requirements, and regulations of the general law governing the state employees in such respects.

**Partial invalidity**

Sec. 28. If any section, provision, or part whatsoever of this Act should be held to be void, as in violation of the Constitution, it shall not affect the validity of the remaining portions thereof; it being the express intention that the Legislature would have passed the Act without the presence of the section or part thereof held to be invalid. Acts 1949, 51st Leg., p. 592, ch. 318.

Emergency. Effective June 6, 1949. appropriation for salaries and expenses of  
Section 27 of the act of 1949 made an the board.

**TITLE 87—LEGISLATURE**

Art.

5429b. Texas Legislative Council [New].

5429c. Legislative Budget Board [New].

**Art. 5429b. Texas Legislative Council****Creation and Membership of Council.**

Section 1. There is hereby created a State Legislative Council which shall consist of five Senators to be appointed by the President of the Senate and ten Representatives to be appointed by the Speaker of the House of Representatives. The President of the Senate and Speaker of the House shall also be ex-officio members of the Council, and the President of the Senate shall be its Chairman and the Speaker of the House its Vice Chairman. The members appointed from each House shall be from various sections of the State and not more than two members shall be appointed from any one Congressional District. Vacancies occurring in the membership shall be filled by appointments made by the Chairman if the vacancy calls for the appointment of a Senator, and by the Speaker if it calls for the appointment of a Representative.

All members of the Council shall serve for a term beginning with the respective dates of their appointment and ending with the convening of the next Regular Session of the Legislature following their appointment. All members appointed for the term ending with the convening of the Regular Session of the 52nd Legislature shall be appointed within twenty days after the effective date of this Act.

**Meetings.**

Sec. 2. The first meeting of the Council shall be held in the Senate Chamber on call of the Chairman within ten days after all its members have been appointed. At its first meeting, the Council shall adopt rules of procedure and provide for the employment of necessary clerical, technical, and professional assistance. Thereafter, the Council shall meet as often as may be necessary to perform its duties; and, in any event, it shall meet at least once in each quarter. Twelve members including the Chairman and Vice Chairman shall constitute a quorum, and a majority of a quorum shall have authority to act in any matter falling within the jurisdiction of the Council.

**Duties.**

Sec. 3. The Council shall have power and its duties shall be:

- (a) To investigate departments, agencies and officers of the State and to study their functions and problems;
- (b) To make studies for the use of the legislative branch of the State Government;
- (c) To gather information for the use of the Legislature;
- (d) To make such other investigations, studies, and reports as may be deemed useful to the legislative branch of the State Government;
- (e) To sit and perform its duties in the interim between sessions; and
- (f) To report to the Legislature its recommendations from time to time and to accompany its reports with such drafts of legislation as it deems proper.

**Minutes and Reports; Rights of Members of Legislature.**

Sec. 4. The Council shall keep complete minutes of its meetings, make periodic reports to all members of the Legislature, and keep said members fully informed of all matters which may come before the Council, the actions taken thereon, and the progress made in relation thereto. Any member of the Legislature shall have the right to attend any of the sessions of the Council, and may present his views on any subject which the Council may at any particular time be considering; but he shall not have the right to participate in any decision which the Council may make.

**Witnesses.**

Sec. 5. The Council, or any committee thereof when so authorized by the Council, is empowered to hold public or executive hearings, at such times and places within the State as may be determined, to make investigations and surveys. Any member of the Council or any of its committees shall have power to administer oaths at said hearings to witnesses appearing thereat. By subpoena, issued over the signature of its Chairman or Vice Chairman and served by the Council's Sergeant-at-Arms or any peace officer in the manner in which District Court subpoenas are served, the Council or any of its committees may summon and compel attendance of witnesses and the production of record books, papers, documents, and records of their custody. If any witness summoned shall refuse to appear or to answer inquiries propounded or shall fail or refuse to produce books, records, or documents under his control, when the same are demanded, the Council or any of its committees shall report the fact to the District Court of Travis County, Texas, and it shall be the duty of such Court to compel obedience to the Council's or committee's subpoena by attachment proceedings for contempt as in the case of disobedience of subpoena issued from such Court. Witnesses attending the hearings or meetings of the Council under process, shall be allowed the same mileage and per diem as is allowed witnesses before any grand jury in this State. The Council shall have power to inspect and make copies of any books, records, or files of the departments and institutions and any and all other instruments and documents pertinent to the matter under investigation by said Council, including any county or political subdivision of this State, and shall also have power to examine and audit the books of any person, firm, or corporation having dealings with departments and institutions under investigation by said Council.

**Assistance from Other Agencies.**

Sec. 6. The Council may call upon the Attorney General's Department, State Auditor, the State Library and all other State departments and agencies for assistance and advice; and it shall be the duty of the Attorney General's Department to render opinions, and give counsel and assistance to said Council on request of the Chairman or Vice Chairman of said Council.

**Expenses and Salaries.**

Sec. 7. The Chairman and Vice Chairman of the Council and all members thereof shall be reimbursed for all necessary traveling and other expenses incurred in the performance of their duties; and the Council shall determine the salaries of its assistants and employees.

**Appropriation.**

Sec. 8. There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of Twenty-five Thousand

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

(\$25,000.00) Dollars, or so much thereof as may be necessary, to pay the expenses of members of the Council and salaries of assistants, employees and for necessary supplies and equipment for the remainder of the fiscal year ending August 31, 1949. The amounts of allowable expenditures by said Council thereafter shall be as determined and provided for in the general biennial appropriation bill or in any bill hereafter passed making appropriation to pay salaries of legislative employees and/or expenses of the Legislature. The certificate of the Chairman or the Vice Chairman shall be sufficient evidence to the Comptroller of the validity of all claims for mileage and per diem expenses, salaries of employees, and other expenses authorized; and he shall issue the necessary warrants for same upon the Treasury of the State of Texas.

**Saving Clause.**

Sec. 9. If any section, subsection, paragraph, or provision of this Act shall be held invalid by any Court for any reason, it shall be presumed that this Act would have been passed by the Legislature without such invalid portion; and such finding and construction shall not in any way affect the validity of the remainder of this Act. Acts 1949, 51st Leg., p. 607, ch. 324.

Effective 90 days after July 6, 1949, date of adjournment.

The act contained the following preamble: "WHEREAS, There is a definite need in this State for an agency to assist the Legislature and its individual

members in obtaining information upon specific legislative problems and matters affecting the general welfare of the State and to assist said members in drafting proposed legislation; now, therefore,"

**Art. 5429c. Legislative Budget Board**

**Members; quorum; meetings; committees**

Section 1. There is hereby created a Legislative Budget Board to be composed of the Speaker of the House of Representatives and four (4) members of the House of Representatives who shall be appointed by the Speaker, one of whom shall be the Chairman of the Appropriations Committee and one of whom shall be the Chairman of the Revenue and Taxation Committee, and of the Lieutenant Governor and four (4) members of the Senate, who shall be appointed by the Lieutenant Governor, one of whom shall be the Chairman of the Finance Committee and one of whom shall be the Chairman of the State Affairs Committee. The Lieutenant Governor shall be the Chairman of said Board, and the Speaker of the House shall be Vice-Chairman of said Board.

A quorum to transact business shall consist of a majority of the members of each House. The Board shall meet at the call of the Chairman or upon the written petition of a majority of the members of each House.

The meetings of the Board shall be conducted at the seat of government; provided, however, that by a majority vote of the members of each House, the Board may meet in such place or places as may be determined by the Board.

The Chairman of the Board may, with the approval of the Board, appoint a committee or committees to visit, inspect and report on any institution, department, agency, officer or employee of the State.

**Director of budget**

Sec. 2. The Board shall appoint a Director of the Budget who shall serve for a period of one year from September 1st of each year, unless sooner discharged by said Board for any reason. The said Director shall

be accountable only to said Board. The salary of the Director shall be fixed by said Board. The Chairman of the Board shall approve all items of expense of the Board, prior to payment thereof.

The Director may, with the approval and consent of the Board, employ such clerical and stenographic assistance as may be deemed necessary, and the salaries of such employees shall be fixed by the Board.

The Director of the Board shall have no vote in the deliberations and meetings of the Board, but may submit recommendations from time to time and shall make recommendations when specifically requested to do so by the Board on such matters as the Board may decide, relating to any functions or duties of any department, institution or agency or of any officer, officers, employee or employees of this State.

The Director of the Budget, under the direction of the Board, shall prepare the general appropriation bills for introduction at each regular session of the Legislature.

#### **Estimates and reports**

Sec. 3. All departments, institutions, agencies, officers and employees or agents of the State shall, in addition to those estimates and reports now provided by law relating to appropriations, submit such estimates and reports relating to appropriations as may be requested by the Board, or under its direction, and at such times as may be directed by the Board and in such manner and form as may be provided by the Board under rules and regulations to be prescribed by said Board.

#### **Inspections and hearings**

Sec. 4. The Legislative Budget Board or any personnel under its direction may inspect the properties, equipment and facilities of the various departments or agencies of the State government for which appropriations are to be made, and all accounts, general or local funds, either before or after such estimates have been submitted, and consider the same and conduct such hearings on said estimates as, in the discretion of the Board, may be desired.

#### **Copies of budget of estimated appropriations**

Sec. 5. The Director of the Budget shall, within five days after the convening of any Regular Session of the Legislature, transmit to all members of the Legislature and to the Governor copies of the budget of estimated appropriations prepared by him.

#### **Estimates and reports under existing laws**

Sec. 6. All estimates and reports with reference to appropriations heretofore and presently required by law to be made by any department, institution, agency, officer or employee of the State shall continue to be made as provided in Chapter 206, Acts of the 42nd Legislature, Regular Session 1931, Sections 1 to 9, inclusive, and known as Article 689a-1 to 689a-7 inclusive, of the Revised Civil Statutes of Texas, 1925, as amended.

It is intended hereby that the provisions of this bill, when enacted, shall be cumulative of and additional to the provisions of the law mentioned in the next preceding paragraph of this Section. Acts 1949, 51st Leg., p. 908, ch. 487.

Emergency. Effective June 29, 1949.

## TITLE 90—LIENS

### CHAPTER SEVEN—OTHER LIENS

#### Article 5500. 5650—51 Lien on vessels

Section 1. Every person who may furnish supplies or materials, or do repairs or labor for or on account of any domestic vessel, owned in whole or in part in this State, shall have a lien on such vessel, her tackle, apparel, furniture and freight money for the security and payment of the same. The provisions of this Article shall not be construed to alter or affect in any way the General Law regulating the liens of seamen on foreign vessels.

Sec. 2. Every Navigation District or Port, deep-water or otherwise, situated within the territorial limits of the State of Texas, which may furnish supplies or materials, or do repairs or labor, or to whom charges may accrue for wharfage, dockage, port charges, pilotage, storage, harbor fees, mooring fees, crane hire, or for any other facility or service, charges for which are specified in its official published Port Tariff, for or on account of any domestic vessel owned in whole or in part in this State, shall have a maritime lien on such vessel, her tackle, apparel, furniture and freight money, which may be enforced by suit in rem, for the security and payment of the same, and it shall not be necessary to allege or prove that credit was given to the vessel.

Sec. 3. The following persons shall be presumed to have authority from the owner to procure repairs, supplies, materials, labor, and to subject the vessel to and to incur the charges specified in Section 3 hereof: the managing owner, ship's husband, master, local agent, or any person to whom the management of the vessel is entrusted at the port of supply. No person tortiously or unlawfully in possession or charge of a vessel shall have authority to bind the vessel.

Sec. 4. The provisions of Sections 2 and 3 of this Act shall not be construed to alter or affect in any way the General Maritime Law regulating liens of seamen or liens on foreign vessels or any Federal Maritime Act regulating liens on foreign or domestic vessels; it being the intention of this Act to create liens in favor of Navigation Districts and Ports in those cases of domestic vessels where maritime liens are not created by either the General Maritime Law or any Federal Maritime Act. As amended Acts 1949, 51st Leg., p. 1120, ch. 574.

Emergency. Effective July 22, 1949.

Section 2 of the amendatory act of 1949, provided that if any paragraph, clause or provision of this Act shall be held unconsti-

tutional, the remainder hereof shall not be affected thereby, but shall remain in full force and effect.

**TITLE 92—LUNACY—JUDICIAL PROCEEDINGS IN CASES OF**

Art.

5561b. Restoration proceedings and discharge [New].

**Art. 5561b. Restoration proceedings and discharge**

Section 1. The provisions of this Act shall apply to all persons who have been both adjudged of unsound mind and as needing restraint by a jury under the provisions of Title 92, Revised Civil Statutes of the State of Texas, 1925, entitled "Lunacy—Judicial Proceedings in Cases of," and committed to a State Hospital in accordance therewith, and not charged with a criminal offense, and to none other.

Sec. 2. The provisions of this Act are intended to be and shall be both mandatory and exclusive.

Sec. 3. Whenever an inmate of a State Hospital thus committed shall be found by the Superintendent thereof to have recovered to an extent that he is no longer of unsound mind, it shall be the duty of said Superintendent to immediately certify that fact to the Judge of the County Court of the county in which said hospital is located, and file an affidavit asking for the restoration of said inmate, such restoration proceedings to be heard and determined in the same manner as now provided by law. It shall be the duty of said Judge to docket and try such proceedings at the earliest possible time.

Sec. 4. Whenever an inmate of a State Hospital shall have been thus certified by the Superintendent thereof as recovered, it shall also be the duty of said Superintendent to immediately release said inmate, if not already on furlough, from said hospital, in the same manner and subject to the same provisions as is provided in Article 3193i, Revised Civil Statutes of the State of Texas, 1925, but in no event shall such inmate be discharged from said hospital unless and until his restoration has been adjudged by a court of competent jurisdiction. The right of rearrest and recommitment to such hospital shall continue to exist as to such inmates while on furlough pending restoration proceedings in the same manner and to the same full extent as is now provided for in Article 3193i.

Sec. 6. If any section, provision or part of this Act should be held to be unconstitutional, or invalid, for any reason, it shall not affect the remainder of this Act. Acts 1949, 51st Leg., p. 810, ch. 435.

Emergency. Effective June 15, 1949.

Section 5 of the Act of 1949 repealed all conflicting laws and parts of laws.

CR 86601

## TITLE 94—MILITIA—SOLDIERS, SAILORS AND MARINES

### CHAPTER ONE—GENERAL PROVISIONS

Art.  
5769b. Leave of absence to public officers  
and employees.

Art.  
5769c. Members of First and Second Cavalry Brigades and Third Infantry Brigade declared veterans of World War I.

#### Art. 5769b. Leave of absence to public officers and employees

Section 1. All officers and employees of the State of Texas who shall be members of the National Guard or official militia of Texas, or members of any of the Reserve Components of the Armed Forces, shall be entitled to leave of absence from their respective duties without loss of time or efficiency rating, on all days during which they shall be engaged in field or coast defense training, ordered or authorized by proper authority.

Sec. 2. All officers and employees of the State of Texas who shall be members of the National Guard or official militia of Texas, or members of any of the Reserve Components of the Armed Forces, shall be entitled to leave of absence from their respective duties without loss of time or efficiency rating on all days of any parade or encampment, ordered or authorized by proper authority.

Sec. 3. All officers and employees of the State of Texas who shall be members of the National Guard or official militia of Texas, or members of any of the Reserve Components of the Armed Forces, shall be entitled to leave of absence from their respective duties without loss of time or efficiency rating on all days on which they shall be ordered by proper authority to duty with troops or field exercises, or for instruction, for not to exceed fifteen (15) days in any one calendar year; provided, however, that the State Comptroller shall pay to the officer or employee the difference between his pay and allowances when on active duty, as certified by said officer or employee, and his salary from the State of Texas when the latter is the greater, and when authorized to do so by the head of the Department or the directing board of an institution or agency where such officer or employee is employed.

Sec. 4. Members of the National Guard or official militia of Texas, or members of any of the Reserve Components of the Armed Forces, who are in the employ of the State of Texas, who are ordered to duty by proper authority shall, when relieved from duty, be restored to the position held by them when ordered to duty.

Sec. 5. The provisions of this Act limiting such leaves of absence with pay to fifteen (15) days in any one calendar year shall not apply to members of the Legislature; but members of the Legislature shall be entitled to pay on all days, without limitations as to number thereof, when they may be absent from the session of the Legislature and engaged as above provided.

Sec. 6. The governing body of each county or political subdivision of the State, including that of each municipality, is hereby authorized to grant eligibility for leaves of absence to all officers or employees thereof under the same conditions and provisions as those applicable to officers and employees of the State. Acts 1949, 51st Leg., p. 954, ch. 523.

Section 7 repeals all conflicting laws and parts of laws.



**Art. 5769c. Members of First and Second Cavalry Brigades and Third Infantry Brigade declared veterans of World War I**

Section 1. The State of Texas does hereby recognize and declare the officers and enlisted men who neither deserted nor were dishonorably discharged from their organizations and who served between January 1, 1918 and November 11, 1918 in either of the two Brigades of Texas Cavalry or the Third Infantry Brigade organized under authority from the War Department of the United States and known as First Cavalry Brigade and Second Cavalry Brigade of the National Guard of Texas and the Third Infantry Brigade, which later became a part of the 36th Division, are veterans of World War I within the meaning of all laws of Texas referring or in anywise appertaining to such veterans.

Sec. 2. The units composing the two brigades of cavalry herein specifically recognized include the following regiments, groups and personnel, to wit: 7th Texas Cavalry (originally organized as the 1st Texas Cavalry), 6th Texas Cavalry, Headquarters Detachments, Medical Detachments, and other component groups, units, officers and enlisted men of or appertaining to either of said cavalry brigades. The units composing the Third Infantry Brigade herein specifically recognized include the 8th, 9th and 10th Regiments and other component groups, units, officers and enlisted men of or appertaining to either of said Infantry Regiments. Acts 1949, 51st Leg., p. 1095, ch. 558.

### CHAPTER THREE—NATIONAL GUARD

#### ADJUTANT GENERAL

Art.

5790a. Transfer of camps, etc., to National Guard Armory Board; sale or disposal as surplus.

#### ADJUTANT GENERAL

**Art. 5790a. Transfer of camps, etc., to National Guard Armory Board; sale or disposal as surplus**

For and on behalf of the State of Texas, the Adjutant General is authorized to designate and transfer any of the State-owned National Guard Camps and all land and improvements, buildings, facilities, and installations, and personal property in connection therewith, or any part of the same, except Camp Mabry, Austin, Texas, to the Texas National Guard Armory Board, either for the purpose of administration thereof or for the purpose of sale or proper disposal otherwise when designated by the Adjutant General as "surplus" or in excess of the needs of the Texas National Guard, its successors or components. The Adjutant General is authorized prior to declaring the above-described property as "surplus" and transferring same to the Texas National Guard Armory Board, to remove, sever, dismantle, or exchange any of said property for the use and benefit of the Texas National Guard or its successors. Added Acts 1949, 51st Leg., p. 445, ch. 239, § 1.

Section 3 repeals all conflicting laws and parts of laws.

**Art. 5798a—2. Veterans county service office****Creation; maintenance; salaries**

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 a county who have served in the armed forces may promptly, properly and rightfully obtain the benefits to which they are entitled, it shall, by a majority vote of the full membership thereof, maintain and operate such an office and shall appoint a Veterans County Service Officer and such Assistant Veterans County Service Officers as shall be deemed necessary by the County Commissioners Court. Such Veterans County Service Officer and/or Assistant Veterans County Service Officers, shall receive a salary fixed by the County Commissioners Court, to be paid in equal monthly installments out of the general funds of the county and all salaries and travel expense, including all necessary expenses in connection with attendance of Service Officers schools and conferences of such Veterans County Service Officer and/or Assistant Veterans County Service Officers and all salaries of the personnel of such office and other expenses of such office shall be paid on order of the Commissioners Court; provided, however, that no salary paid to any such Veterans County Service Officer shall exceed the sum of Four Hundred and Seventy-five Dollars (\$475) per month and no salary paid to any such Assistant Veterans County Service Officer shall exceed the sum of Three Hundred and Fifty Dollars (\$350) per month; and provided further, that the population of the county, and the number of ex-service men and women in the county, shall definitely be taken into account in fixing the salary of the Veterans County Service Officer, and such Assistant Veterans County Service Officers as may be appointed. As amended Acts 1949, 51st Leg., p. 1206, ch. 613, § 1.

**Art. 5798a—3. Veterans education; State Treasurer authorized to accept funds from Veterans Administration; disposition**

Acts 1949, 51st Leg., ch. 561, § 1, re-appropriating the unexpended balance of the money appropriated by this article, reads as follows:

"There is hereby re-appropriated to and for the use and benefit of the State Approval Agency for Veterans Education under Public Law 346 the unexpended balance of that certain appropriation made by the provisions of House Bill No. 329, Acts 50th Legislature, Chapter 207, page 365, which said appropriation included an initial Fifty-five Thousand (\$55,000.00) Dollars to get the program initiated thereunder, and which said sum is, and has been since its original appropriation, constantly reim-

bursed by funds from the Veterans Administration under the Federal Statute authorizing the Veterans Administration to reimburse certain expenditures made by the State Approval Agency. Since the fund is being reimbursed constantly with funds from the Veterans Administration, its ultimate dissipation is thereby insured against. There is also hereby re-appropriated all funds or moneys as may be received and deposited in the State Treasury from the Veterans Administration for the use and benefit of the State Approval Agency. No moneys herein appropriated shall be expended without the approval of the Legislative Audit Committee."

**COMPENSATION AND PRIVILEGES****Art. 5845, 5846 Disabled men**

Every member of the military forces of this State who shall be wounded, disabled or injured while in the service of this State, in case of riot, tumult, breach of the peace, resistance to process, invasion, insurrection or imminent danger thereof, or whenever called upon in aid of the civil authorities, or whenever participating in any authorized training formation or activity under order of the Commanding Officer of his unit, shall

be taken care of and provided for at the expense of the State. Whenever the State fails or refuses to furnish the necessary medical treatment and expense as provided herein, such member shall be entitled to reimbursement from the State for all expenses incurred by him as a result of such injury, and to compensation for loss of time as a result of any incapacity due to such injury. As amended Acts 1949, 51st Leg., p. 1172, ch. 586, § 1.

Sections 2-4 of the act of 1949 read as follows:

"Sec. 2. All members of the military forces of this State who were wounded, disabled or injured while in the service of this State, as provided in Section 1 of this Act, on or after January 1, 1940, shall also be entitled to the benefits herein.

"Sec. 3. There is hereby appropriated to the Adjutant General's Department for the purpose of paying the expenses provided for herein, and in addition to all other

moneys appropriated to the Adjutant General's Department, the sum of Two Thousand, Seven Hundred and Six Dollars and fifty cents (\$2,706.50) out of any moneys in the State Treasury not otherwise appropriated.

"Sec. 4. If any Section, subsection, or portion of this Act, shall be invalid, such invalidity shall not affect the remaining portions and the Legislature declares it would have enacted the same without such invalid portions."

## GENERAL PROVISIONS

### Art. 5890b. National Guard Armory Board

Sec. 5. The Board shall be authorized to receive from the Adjutant General State-owned National Guard Camps and all land and improvements, buildings, facilities, installations, and personal property in connection therewith and administer the same or transfer it to the Board of Control for sale, or make proper disposal of such property otherwise when designated by the Adjutant General as "surplus" and when directed by him as being in the best interest of the Texas National Guard, its successors or components. The Armory Board and the Board of Control are further authorized to remove, dismantle, and sever, or authorize the removal, dismantling, and severance of any of said property to accomplish the above purposes. All of such property so designated for sale shall, when transferred by the Armory Board, be sold by the Board of Control to the highest bidder for cash and in the manner provided by law for the sale of property belonging to the State which is no longer needed, and all funds received from such sale shall be deposited in the State Treasury to the credit of the Adjutant General's Department for the use and benefit of the Texas National Guard or their successors or components; provided, however, that none of these funds may be expended except by legislative appropriation.

Any sale or deed made pursuant to the terms of this Act shall reserve unto the State of Texas a one-sixteenth (1/16) mineral interest free of cost of production. Added Acts 1949, 51st Leg., p. 467, ch. 251, § 1.

Section 2 of the amendatory act of 1949 repeals all conflicting laws and parts of laws.

## TITLE 96—MINORS—REMOVAL OF DISABILITIES OF

Art.

5921a. Minors in armed forces or honorably discharged therefrom.

Art. 5921a. Minors in armed forces or honorably discharged therefrom

In addition to and cumulative of the provisions of Article 5921, minors above the age of eighteen (18) years who are in the armed forces, and those 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. As amended Acts 1949, 51st Leg., p. 679, ch. 352, § 1.

## TITLE 102—OIL AND GAS

### GENERAL PROVISIONS

Art.

6008a—1. Channel type carbon black plants; location; emission of smoke.

Art.

6008b. Agreements for pooled units and cooperative facilities in secondary recovery operations.

### NATURAL GAS

6066b. Standard gas measurement law.

### GENERAL PROVISIONS

Art. 6008. 7849 Production and use of natural gas

#### Definitions

Sec. 2.

(k) For the purposes of this Article, the term "cubic foot of gas" or "standard cubic foot of gas" means the volume of gas (including natural and casinghead) contained in one cubic foot of space at a standard pressure base and at a standard temperature base. The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be 60 degrees Fahrenheit. Whenever the conditions of pressure and temperature differ from the above standard, conversion of the volume from these conditions to the standard conditions shall be made in accordance with the Ideal Gas Laws, corrected for deviation. As amended Acts 1949, 51st Leg., p. 945, ch. 519, § 3.

#### Waste defined and prohibited

Sec. 3. The production, transportation, or use of natural gas in such manner, in such amount, or under such conditions as to constitute waste is hereby declared to be unlawful and is prohibited. The term "waste" among other things shall specifically include:

(a) The operation of any oil well, or wells with an inefficient gas-oil ratio.

(b) The drowning with water of any stratum or part thereof capable of producing gas in paying quantities.

(c) Underground waste or loss however caused and whether or not defined in other subdivisions hereof.

(d) Permitting any natural gas well to burn wastefully.

(e) The creation of unnecessary fire hazards.

(f) Physical waste or loss incident to, or resulting from, so drilling, equipping, or operating well or wells as to reduce or tend to reduce the ultimate recovery of natural gas from any pool.

(g) The escape into the open air, from a well producing both oil and gas, of natural gas in excess of the amount which is necessary in the efficient drilling or operation of the well.

(h) The production of natural gas in excess of transportation or market facilities, or reasonable market demand for the type of gas produced.

(i) The use of natural gas for the manufacture of carbon black without first having extracted the natural gasoline content from such gas, except where it is utilized in a plant producing an average recovery of not less than five (5) pounds of carbon black to each one thousand (1,000) cubic feet of gas it shall not be necessary to first extract the natural gasoline content from such gas.

(j) The use of sweet gas produced from a gas well for the manufacture of carbon black unless it is utilized in a plant producing an average recovery of not less than five (5) pounds of carbon black to each one thousand (1,000) cubic feet and unless such sweet gas is produced from a well located in a common reservoir producing both sweet and sour gas.

(k) Permitting any natural gas produced from a gas well to escape into the air before or after such gas has been processed for its gasoline content.

(l) The production of natural gas from a well producing oil from a stratum other than that in which the oil is found, unless such gas is produced in a separate string of casing from that in which the oil is produced.

(m) The production of more than one hundred thousand (100,000) cubic feet of gas to each barrel of crude petroleum oil unless such gas is put to one or more of the uses authorized for the type of such gas so produced under allocations made by the Commission. As amended Acts 1941, 47th Leg., p. 117, ch. 91, § 1.

**Limiting escape of gas encountered in well  
and purpose of utilization of gas**

Sec. 7. After the expiration of ten (10) days from the time of encountering gas in a gas well, no gas from such well shall be permitted to escape into the air, and all gas produced therefrom shall be utilized for the following purposes:

(1) No sweet gas shall be utilized except for:

(a) Light or fuel.

(b) Efficient chemical manufacturing, other than the manufacture of carbon black, provided, however, that sweet gas produced from wells located in a common reservoir producing both sweet and sour gas may be used for the manufacture of carbon black where it is utilized in a plant producing an average recovery of not less than five (5) pounds of carbon black to each one thousand (1,000) cubic feet of gas.

(c) Bona fide introduction of gas into oil, or gas bearing horizon, in order to maintain or increase the rock pressure or otherwise increase the ultimate recovery of oil or gas from such horizon.

(d) The extraction of natural gasoline therefrom when the residue is returned to the horizon from which it is produced.

(2) In addition to the purposes for which sweet gas produced from a gas well may be used, sour gas may be used for efficient chemical manufacturing purposes including the manufacture of carbon black provided it is utilized in a plant producing a recovery of not less than one pound of carbon black to each one thousand (1,000) cubic feet of gas, and provided

further that the gasoline content is removed and saved from such sour gas before the same is utilized for carbon black.

(3) Casinghead gas may be used for any beneficial purpose, which includes the manufacture of natural gasoline.

(4) Any producer of either sweet or sour gas or casinghead gas may use the same as gas lift in the bona fide production of oil where such gas is not used in excess of ten thousand (10,000) cubic feet per barrel of oil produced; provided that in order to prevent waste in any case where the facts in such case warrant it, the Commission may permit the use of additional quantities of gas to lift oil, provided all such gas so used in excess of ten thousand (10,000) cubic feet for each barrel of oil shall be processed for natural gasoline and the residue burned for carbon black when same is reproduced. As amended Acts 1941, 47th Leg., p. 117, ch. 91, § 2.

Sec. 21. Repealed. Acts 1949, 51st Leg., p. 477, ch. 259, § 4.

Pooling and cooperative agreements in secondary recovery operations, see art. 6008b.

#### Art. 6008—1. Interstate Compact to Conserve Oil and Gas; Extension of Compact

Sec. 5. The Governor shall be the official representative of the State of Texas on the Interstate Oil Compact Commission, provided for in the Compact to Conserve Oil and Gas, and shall exercise and perform for the State of Texas all the powers and duties as a member of the Interstate Oil Compact Commission; provided that he shall have the authority to appoint an assistant representative who shall act in his stead as the official representative of the State of Texas as a member of said Commission. Said representative shall take the oath of office prescribed by the Constitution, which shall be filed with the Secretary of State. Acts 1935, 44th Leg., p. 198, ch. 81; Acts 1937, 45th Leg., p. 424, ch. 217; Acts 1939, 46th Leg., Spec.L., p. 527; Acts 1941, 47th Leg., p. 76, ch. 63; Acts 1943, 48th Leg., p. 15, Ch. 15; Acts 1947, 50th Leg., p. 69, ch. 52, § 1.

#### Art. 6008a. Production and use of sour gas from common reservoirs for carbon black; definitions

**Commingling of casinghead gas with sweet or sour gas or of sweet and sour gas, without permit, prohibited; regulation of uses of gases; carbon black, use for**

(h) Any natural gas, including casinghead gas, produced from any gas well or oil well in this State, containing less than one and one-half (1½) gallons of propane and heavier hydrocarbons per one thousand (1,000) cubic feet, as determined by fractional analysis made of such gas, may be used for the manufacture of carbon black in a plant producing an average recovery of as much as one and one-half (1½) pounds of carbon black for each one thousand (1,000) cubic feet of gas consumed, but natural gas, including casinghead gas, produced from any gas well or oil well in this State, containing one and one-half (1½) gallons or more of propane and heavier hydrocarbons per one thousand (1,000) cubic feet, as determined by fractional analysis made of such gas, may not be so used in such a plant without the prior extraction of its natural gasoline content; provided, however, that the Railroad Commission of Texas may upon application being filed therefor, and after notice and hearing, authorize the use of any natural gas, including casinghead gas, containing one and one-half (1½) gallons or more of propane and heavier hydrocarbons per one thousand (1,000) cubic feet, as determined by fractional analysis made of such gas, in the manufacture of carbon black in such a plant where the Railroad Commission shall find it to be unprofitable to first extract the natural gasoline content of such gas.

Provided, further, that in the event a general shortage of propane and/or heavier liquid hydrocarbons occurs, then after notice and hearing the Railroad Commission may require additional extraction of such hydrocarbons from such gas to alleviate such shortage, but such additional extraction shall not be required where it is not economically feasible to do so. Added Acts 1949, 51st Leg., p. 900, ch. 482, § 1.

(i) The provisions of this Act shall not apply to natural gas produced from a common reservoir containing both sweet and sour gas which was being lawfully used for the manufacture of carbon black, or to gas from gas wells located in such reservoirs which was entitled to be so used at the time of the passage of this Act under the provisions of Section 3, Article 6008a, Title 102, Vernon's Revised Civil Statutes of Texas, being Senate Bill No. 407, Acts of the Forty-fifth Legislature, 1937, as amended by Senate Bill No. 227, Chapter 351, Acts of the Fiftieth Legislature, 1947. Added Acts 1949, 51st Leg., p. 900, ch. 482, § 1.

Section 2 of the Act of 1949 is set out as art. 6008a—1.

Section 4 provided that unconstitutionality of any part of the act should not affect the remaining portions.

Section 3 repealed all conflicting laws and parts of laws.

#### Art. 6008a—1. Channel type carbon black plants; location; emission of smoke

After the effective date of this Act<sup>1</sup> no channel type carbon black plant shall be erected or constructed closer than five (5) miles to the limits of any city, town or village, incorporated at or before the time the erection or construction of such a plant is begun, or to a commercially operated citrus fruit orchard planted not less than one (1) year before the time the erection or construction of such a plant is commenced, unless adequate precaution is taken to minimize the emission of smoke from such plant. Acts 1949, 51st Leg., p. 900, ch. 482, § 2.

<sup>1</sup> This article and art. 6008a, § 3(h)(i), effective 90 days after July 6, 1949, date of adjournment.

#### Art. 6008b. Agreements for pooled units and cooperative facilities in secondary recovery operations

##### Agreements authorized; approval; permissible and prohibited provisions

Section 1. Subject to approval of the Railroad Commission of Texas (hereinafter called Commission), as hereinafter set out, persons owning or controlling production, leases, royalties, or other interests in separate properties in the same oil field, gas field, or oil and gas field, may voluntarily enter into and perform agreements for the following purposes:

(A) To establish pooled units necessary to effect secondary recovery operations for oil or gas, including those known as cycling, recycling, repressuring, water flooding, and pressure maintenance and to establish and operate cooperative facilities necessary for said secondary recovery operations;

(B) To establish pooled units and cooperative facilities necessary for the conservation and utilization of gas, including those for extracting and separating the hydrocarbons from the natural gas or casinghead gas and returning the dry gas to a formation underlying any lands or leases committed to the agreement.

Such agreements shall not become lawful nor effective until the Commission finds, after application, notice and hearing:

1. Such agreement is necessary to accomplish the purposes specified in (A) or (B) or both; that it is in the interest of the public welfare as being reasonably necessary to prevent waste, and to promote the conserva-

tion of oil or gas or both; and that the rights of the owners of all the interests in the field, whether signers of the unit agreement or not, would be protected under its operation;

2. The estimated additional cost, if any, of conducting such operation will not exceed the value of additional oil and gas so recovered, by or on behalf of the several persons affected, including royalty owners, owners of overriding royalties, oil and gas payments, carried interests, lien claimants and others as well as the lessees;

3. Other available or existing methods or facilities for secondary recovery operations and/or for the conservation and utilization of gas in the particular area or field concerned are inadequate for such purposes;

4. The area covered by the unit agreement contains only such part of the field as has reasonably been defined by development, and that the owners of interests in the oil and gas under each tract of land within the area reasonably defined by development are given an opportunity to enter into such unit upon the same yardstick basis as the owners of interests in the oil and gas under the other tracts in the unit.

Such agreements may provide for the location and spacing of input wells and for the extension of leases covering any part of lands committed to the unit so long as operations for drilling or reworking are conducted on the unit or so long as production of oil or gas in paying quantities is had from any part of the lands or leases committed thereto; provided that no such agreement shall relieve any operator from the obligation to develop reasonably the lands and leases as a whole committed thereto.

Such agreements shall not bind any land owner, royalty owner, lessor, lessee, overriding royalty owner or any other person who does not execute them, but shall bind only the persons who execute them, their heirs, successors, assigns and legal representatives; but no person shall be compelled or required to enter into such an agreement.

It shall be grounds for the disapproval of the agreement, if the Commission finds that the area described in the unit agreement is insufficient, or that it covers more acreage than is necessary, to accomplish the purposes of this Act.

All agreements executed hereunder shall be subject to any valid order, rule, or regulation of the Commission relating to location, spacing, proration, conservation, or other matters within the authority of the Commission, whether promulgated prior to or subsequent to the execution of such agreement, and no such agreements shall attempt to contain the Field Rules for the area or field, that being solely the province of the Commission; and no such agreement shall provide for nor limit the amount of production of oil or gas from the unit properties, that being the province of the Commission.

No such agreement shall provide, directly or indirectly, for the cooperative refining of crude petroleum, distillate, condensate, or gas, or any by-product of crude petroleum, distillate, condensate or gas. The extraction of liquid hydrocarbons from gas, and the separation of such liquid hydrocarbons into propanes, butanes, ethanes, distillate, condensate, and natural gasoline, without any additional processing of any of them, shall not be considered to be refining.

No such agreement shall provide for the cooperative marketing of crude petroleum, condensate, distillate or gas, or any by-products thereof.

No provisions of this Act shall be construed as requiring the approval of the Commission of voluntary agreements for the joint development and operation of jointly owned properties.

Nothing herein shall restrict any of the rights which persons now may have to make and enter into unitization and pooling agreements.



The approval of any such agreement shall not of itself be construed as a finding that operations of a different kind or character in the portion of the field outside of the unit are wasteful or not in the interest of conservation.

#### Public lands

Sec. 2. The Commissioner of the General Land Office, on behalf of the State of Texas or of any fund belonging thereto, is authorized to execute contracts committing to the agreements herein declared to be lawful the royalty interests in oil or gas, or both, reserved to the State or any fund thereof by law, in any patent, in any contract of sale, or under the terms of any oil and gas lease lawfully issued by an official, board, agent, agency or authority of the State; provided (a) that agreements which commit such royalty interests in lands set apart by the Constitution and laws of this State for the Permanent Free School Fund and the several asylum funds, in river beds, inland lakes, and channels, and the area within tidewater limits, including islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea, are approved by the School Land Board and are executed by the owners of the soil if they cover lands leased for oil and gas under the Relinquishment Acts, Articles 5367 to 5379, inclusive, Revised Civil Statutes of Texas, 1925; and (b) that agreements which commit such royalty interests in lands or areas other than those mentioned in the preceding clause (a) of this Section 2, are approved by the board, official, agent, agency, or authority of the State vested with authority to lease or to approve the leasing of said lands or areas for oil and gas.

An agreement authorized by this Act may provide that the dry gas after extraction of hydrocarbons may be returned to a formation underlying any lands or leases committed to the agreement, and may provide that no royalties are required to be paid on such gas so returned.

#### Fiduciaries

Sec. 3. An administrator, executor, guardian, or other fiduciary administering an estate under the control and jurisdiction of any County Court of this State may, on behalf of the estate, make, enter into, and execute agreements of the character herein declared to be lawful, and may include therein the interests of the estate in oil and gas under the control and jurisdiction of the County Court. The administrator, executor, guardian or other fiduciary shall file his sworn application with the County Clerk of the county where such estate is being administered for authority to make, enter into, and execute the agreement, and the County Judge, either in term time or vacation, shall hear the application and require proof as to the necessity or advisability of making and entering into the agreement; and, if he approves the same, he shall enter an order authorizing the administrator, executor, guardian, or other fiduciary to make, enter into, and execute the agreement, and the order shall contain a copy thereof.

Previous notice of such application shall be given by the administrator, executor, guardian, or other fiduciary for one week prior to the time the County Judge hears the application. The notice shall be given by publishing same in some newspaper of general circulation published in the county where the estate is pending for one issue of the paper. The notice shall say when and where the application will be heard. If no such newspaper is published in the county where the notice is required to be given, then the notice may be given by posting same at the court house door of such county, or at any other place in the court house provided for posting of notices or citations, at least seven days next preceding the date of the hearing, and the 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 publishing or posting.

No notice of such application shall be given by the County Clerk, but notice must be given by the administrator, executor, guardian, or other fiduciary as herein provided, and, when the application is filed, the Clerk shall immediately call the attention of the Judge of the Court in which the estate is pending to the filing of the application; and the Judge shall designate a date to hear the application, which date shall not be within seven days succeeding the filing of the application, and such hearing may be continued from time to time until the Judge is satisfied concerning the application.

After the hearing of the application and the granting of same by the Court, the administrator, executor, guardian, or other fiduciary shall be fully authorized to make, enter into, and execute the agreement upon the oil and gas interests of the estate being administered in accordance with the judgment of the Court thereon. In the event the Court considers the making of the agreement of sufficient benefit to the estate being administered, he may authorize execution thereof without requiring the payment of any cash consideration or bonus therefor, and shall so state in his order authorizing the execution thereof; and in that event, when the order has been made, the administrator, executor, guardian, or other fiduciary shall be fully authorized to make and enter into, and to execute and deliver, the authorized agreement, and it shall not be necessary for the Court to make an order confirming the agreement. In the event the order of the Court requires a cash bonus to be paid, the agreement shall not be valid until the administrator, executor, guardian, or other fiduciary files a good and sufficient bond in double the amount of the cash bonus that is provided to be paid for the execution of the agreement, which bond shall be approved by the County Judge, filed with the County Clerk, and recorded in the minutes of the Court; provided, however, in the event the order of the Court contains findings to the effect that the general bond of the administrator, executor, guardian, or other fiduciary is sufficient in amount to equal double the value of the personal property of the estate on hand, including the amount of such cash bonus, or in the event the executor or other fiduciary is administering the estate without bond, no additional bond shall be required. When the order has been made and any bond that may be required hereunder has been executed and approved, the administrator, executor, guardian, or other fiduciary shall be fully authorized to make and enter into, and execute and deliver, the authorized agreement, and it shall not be necessary for the Court to make any order confirming the agreement.

An agreement authorized by this Act shall not of itself have the effect of extending any oil and gas lease executed by a guardian on real estate belonging to a minor beyond the time the minor becomes twenty-one years of age, unless, at the time the minor becomes twenty-one years of age, oil and gas, or either of them has been discovered on the lands described in and committed to the agreement; in which event the lease shall remain in force and effect for so long as oil and gas, or either of them is produced from any of the lands committed to the agreement.

An agreement authorized by this Act shall not of itself have the effect of extending any oil and gas lease, executed by an executor or administrator on oil and gas interests belonging to the estate and being administered under the control and jurisdiction of the County Court, beyond the time the estate is partitioned and distributed, and shall not be binding upon the heirs, legatees, or distributees of the estate or on the purchasers from the estate, unless at the time the estate is partitioned and distrib-

uted actual development has been commenced and is being and continues to be prosecuted with reasonable diligence, or oil and gas, or either of them, has been discovered on the lands described in and committed to the agreement; in which event the lease shall remain in force and effect for so long as actual development is prosecuted with reasonable diligence on the lands described in and committed to the agreement, and if development operations result in the discovery of oil and gas, or either of them, then for so long thereafter as oil and gas, or either of them, is produced from any of the lands committed to the agreement.

No provision in this Act shall be construed as requiring approval by the County Court of an agreement herein declared to be lawful when it is made by an independent executor, or any other fiduciary, acting free from the control of the County Court.

An agreement authorized by this Act may provide that the dry gas after extraction of hydrocarbons may be returned to a formation underlying any lands or leases committed to the agreement, and may provide that no royalties are required to be paid on such gas so returned.

#### Repeals

Sec. 4. Section 21 of Chapter 120 of the Acts of the 44th Legislature, Regular Session, page 318,<sup>1</sup> and Chapter 309 of the Acts of the 49th Legislature, Regular Session, page 507,<sup>2</sup> and Chapter 80 of the Acts of the 49th Legislature, Regular Session, page 117,<sup>3</sup> are hereby repealed. All other laws and parts of laws in conflict herewith, to the extent only that they may be in conflict, are hereby repealed; but where the same are not in conflict, the provisions of this Act shall be cumulative of such other existing law; provided, however, that nothing in this Act contained shall repeal, modify or impair any of the provisions of House Bill No. 782, as heretofore amended, passed by Regular Session of 44th Legislature, relating to oil and gas conservation, nor shall impair the power of the Commission proceeding under the oil or gas conservation laws of this State, to prevent waste, except as provided in Section 5 of this Act.

<sup>1</sup> Article 6008, § 21.

<sup>2</sup> Article 5368b.

<sup>3</sup> Article 4192a.

#### Conflict with anti-trust laws

Sec. 5. Agreements, and operations thereunder, in accordance with this Act, being necessary to prevent waste and conserve the natural resources of this State, shall not be construed to be in violation of the provisions of Title 126, Revised Civil Statutes, 1925, as amended, nor Chapter 3, Title 19, Penal Code of Texas, 1925, as amended, known as Anti-Trust Acts. However, if any court should find a conflict between this Act and Title 126, Revised Civil Statutes of Texas, 1925, as amended, or Chapter 3, Title 19, Penal Code of Texas, 1925, as amended, then this Act is intended as a reasonable exception thereto, necessary for the above stated public interests; provided further, that if any court should find that a conflict exists between this and the above mentioned laws, and that this Act is not a reasonable exception thereto, then it is the intent of the Legislature that this Act, or any conflicting portion hereof, shall be declared invalid rather than declaring the above mentioned Anti-Trust Laws, or any portion thereof, invalid.

#### Severability

Sec. 6. It is hereby declared to be the legislative intent to enact each provision of this Act separately; and should any section, phrase, or part of this Act be declared unconstitutional, or for any reason invalid, such

invalidity shall not affect any other remaining portion, provision, or section. Acts 1949, 51st Leg., p. 477, ch. 259.

Arts. 6014, 6014a, 6029, 6033, 6036, 6036a, 6049c-6049e

Acts 1935, ch. 76, not repealed, modified or impaired, see art. 6008b.

## NATURAL GAS

### Art. 6053. Regulation of utilities

#### Rules and regulations; exceptions; cooperation by Department of Public Safety

Sec. 6(a). 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 such regulations 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 used in accordance with and 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.<sup>1</sup> 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.

(b) Nothing contained in this Act shall apply to the sale in the ordinary course of business of any part or 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 used in accordance with and subject to the regulation of the Interstate Commerce Commission, and containers which are owned and used by the Federal Government. As amended Acts 1949, 51st Leg., p. 411, ch. 220, § 1.

<sup>1</sup> Article 911b and Vernon's Ann.P.C. art. 1690b.

#### License; safety and protection of public

Sec. 7(a). No person, firm, corporation or association shall engage in this State in the manufacturing, and/or assembling, and/or repairing, and/or selling, and/or installing of containers; nor shall any person, firm, corporation or association engage in the laying or connecting of pipes or piping, including all types of fittings, either in connecting with or to liquefied petroleum gas systems, or with or to house service lines or house pipes, nor in any manner lay or connect pipes or piping, including all types of fittings, to serve a system or appliances, to be used with

liquefied petroleum gas as a fuel; nor shall such persons, firms, corporations or associations engage in the installation and/or servicing of appliances using or to be used in connection with systems using liquefied petroleum gas as a fuel, nor shall such persons, firms, corporations or associations 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 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.

(b) There is hereby created a limited license under the provisions of this Act, wherein persons, firms, corporations or associations are authorized to service and/or repair and/or connect and/or adjust ranges and/or cooking appliances, and/or space heaters, floor furnaces and water heaters excepted, when done with approved liquefied petroleum gas connectors, and when connected to existing piping outlets of approved liquefied petroleum gas facilities, and when such appliances as specified herein meet the requirements of the Railroad Commission of Texas for use with liquefied petroleum gas as a fuel.

Persons, firms, corporations or associations qualifying under the provisions of the limited license provided for herein, shall apply to the Railroad Commission of Texas for a license so to do, such application to be in writing, and shall contain such information as the Railroad Commission shall prescribe. No such license shall be issued until 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 limited license. As amended Acts 1949, 51st Leg., p. 411, ch. 220, § 2.

#### **Employment of qualified person**

Sec. 8. Provided further, that the Commission shall have the authority to require every person, firm, corporation or association who makes installations or repairs of containers, equipment, and/or appliances, or firms, persons, corporations or associations 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. The Railroad Commission shall arrange for such examinations to be given locally or in specified districts at designated dates. 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. As amended Acts 1949, 51st Leg., p. 411, ch. 220, § 3.

**Annual fees**

Sec. 10(a). For the purpose of defraying the expenses of this Act, each person, firm, corporation or association engaged in one or more of the pursuits named in this Act, except as otherwise provided in this subsection, shall at the time of issuance of such license, and annually thereafter, on or between September 1 and September 15 of each calendar year, pay to the Railroad Commission a special fee of Twenty-five (\$25.00) Dollars; except that each person, firm, corporation or association 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 1 and September 15 of each calendar year, pay to the Railroad Commission a special fee of Fifty (\$50.00) Dollars; and except further that each person, firm, corporation or association who qualifies under the limited license provision as set forth in paragraph (b) of subsection 7, of Section 1, of this Act<sup>1</sup>, shall at the time of issuance of such license, and annually thereafter, on or between September 1 and September 15 of each calendar year, pay to the Railroad Commission a special fee of Five (\$5.00) Dollars. When any person, firm, corporation or association has paid the fee required by the particular type of license under which he proposes to operate, then such person, firm, corporation or association shall not be liable for nor have to pay either of the other two special license fees provided herein, except when the licensee expands his operations, in which case he shall qualify for and pay the license fee as required for the additional operations.

(b) If the license here provided for is issued after the month of September of any year, all fees, except the Five (\$5.00) Dollars fee, shall be prorated to the remaining portion of the year to August 31 following, but in no case less than one-fourth of the total annual fee. As amended Acts 1949, 51st Leg., p. 411, ch. 220, § 4.

<sup>1</sup> Section 7 of this article.

**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 recovered 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 carrier qualified to do business in the State of Texas, and keep same in force so long as they shall continue in business, policies of insurance in the following kinds and amounts, said policies to guarantee payment of damages which proximately result from acts of negligence, while said licensee is engaging in any of the activities as herein provided:

1. A public liability and property damage insurance policy on each and every motor vehicle, including trailers designed for use therewith on highways, used in the transportation of liquefied petroleum gases, of Five Thousand (\$5,000.00) Dollars for bodily injuries to any one person, or a total of Ten Thousand (\$10,000.00) Dollars for bodily injuries for any one accident involving two or more persons, and property damage for any one accident of Five Thousand (\$5,000.00) Dollars.

2. A manufacturers and contractors liability policy of Five Thousand (\$5,000.00) Dollars for any one person, and not to exceed Ten Thousand (\$10,000.00) Dollars for any one accident in which two or more persons are injured, and of Five Thousand (\$5,000.00) Dollars total property damage for any one accident.

3. A Workmen's Compensation or employers' liability policy.

Provided, however, that this section shall not be applicable unless and until such policies are available for purchase; and further provided, that such policies of insurance shall be approved by the Railroad Commission of Texas. Provided further, however, that nothing in this Act shall prevent or prohibit such licensee from purchasing policies of insurance of a greater coverage than the amounts specified herein. As amended Acts 1949, 51st Leg., p. 958, ch. 526, § 1.

#### Art. 6066b. Standard gas measurement law

##### Short title

Section 1. This Act shall be known and may be cited as the "Standard Gas Measurement Law."

##### Cubic foot of gas defined

Sec. 2. The term "cubic foot of gas" or "Standard cubic foot of gas" means the volume of gas contained in one cubic foot of space at a standard pressure base and at a standard temperature base. The standard pressure base shall be 14.65 pounds per square inch absolute and the standard temperature base shall be 60 degrees Fahrenheit. Whenever the conditions of pressure and temperature differ from the above standard conversion of the volume from these conditions to the standard conditions shall be made in accordance with the Ideal Gas Laws, corrected for deviation.

##### Determination of variable factors; use of findings and field rules

Sec. 4a. It shall be the duty of the Railroad Commission of Texas and said Commission is hereby authorized, empowered and directed to determine the average temperature of gas, as produced in each oil and gas field in Texas, and to determine the other variable factors necessary to calculate the metered volumes in accordance with the Ideal Gas Laws and the variable factors to correct for deviation from the Ideal Gas Laws in each of the oil and gas fields in the State of Texas. Upon request of any interested party the Railroad Commission of Texas shall give notice and hold a public hearing before making such determinations. Promptly upon such determinations the Railroad Commission of Texas shall make and publish such findings and promulgate such reasonable field rules as may be necessary to effectuate the provisions of this Act.

Any person, association of persons, or corporation shall be permitted to use the findings and field rules of the Commission for all purposes under this Act, but if such findings or field rules are not so used in determining volumes under this Act, the volumes so otherwise determined shall be corrected to the basis of the "standard cubic foot of gas" as defined in Section 2 of this Act.

##### Reporting volumes of gas

Sec. 4b. Any person required to report volumes of gas under the laws of this State as amended by Sections 3 and 4 hereof<sup>1</sup>, shall report such volumes in number of standard cubic feet calculated and determined under the provisions of this Act.

<sup>1</sup> Articles 6008, § 2(k), 7047b, § 2(12).

**Conformity to standard cubic foot; existing contracts; violations of act**

Sec. 5. Each and every sale, and each and every purchase, delivery and receipt of gas by volume hereafter made in this State, by, for or on behalf of an oil and gas lease owner, royalty owner thereunder, or other mineral interest owner, shall be made and such gas shall be measured, calculated, purchased, delivered and accounted for on the basis of "a standard cubic foot of gas" as defined in Section 2, and as determined under this Act. Whenever the provisions of this Act operate to change the basis of measurement provided for in existing contracts, then the price for gas, including royalty gas, provided for in such contracts shall, if either the purchaser or seller so desires, be adjusted to compensate for the change in the method of measuring the volume of gas delivered thereunder. This provision is intended to protect parties to contracts now in existence, so that after this Act becomes effective the total amount of money paid for a volume of gas purchased, or required to be accounted for, under existing contracts shall remain unaffected by this Act.

If the foregoing provisions of this Section 5, or any part thereof, shall be held by the courts to be unconstitutional or invalid then and in that event the remaining portions of this Act shall become ineffective and inoperative.

Nothing in this Section shall affect or apply to purchases or sales made on any basis other than a volume basis.

Any person, association of persons, or corporation who, as purchaser thereof, shall knowingly fail or refuse to so measure, calculate or account for any such gas so purchased, shall be subject to a penalty of not less than Ten Dollars (\$10) nor more than Five Hundred Dollars (\$500) for each offense recoverable in the name of the State in any District Court in Travis County, Texas, and each day of such violation shall constitute a separate offense. But it shall be a defense to any claim for such penalty that the Railroad Commission of Texas has not made and published the findings provided for in Section 4a, as to the particular field in question.

Nothing herein shall prevent an aggrieved party from maintaining a civil suit for damages in the county or counties in which the gas is produced.

**Partial invalidity**

Sec. 6. Subject to the provisions in Section 5 hereof, if any part, Section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the Courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have been enacted, and does here now enact, such remaining portions despite any such invalidity. Acts 1949, 51st Leg., p. 945, ch. 519.

Section 2 of this act amends art. 6008, § 2(k) and section 3, art. 7047b, § 2(12).



## TITLE 103—PARKS

<p><b>1. STATE PARKS BOARD</b></p> <p>Art. 6067a. State parks and historical parks under control of State Parks Board; exceptions.</p> <p>6070e. Separate facilities for white and Negro citizens [New].</p> <p><b>3. GONZALES STATE PARK</b> 6074, 6075. Repealed.</p> <p><b>4. WASHINGTON STATE PARK</b> 6076, 6077. Repealed.</p> <p><b>4A. GOLIAD STATE PARK</b> 6077a. Repealed.</p>	<p><b>4G. KING'S MEMORIAL STATE PARK</b> Art. 6077i. Repealed.</p> <p><b>4M. OIL AND GAS LEASES OF PARK LANDS</b> 6077o. Leasing for oil and gas.</p> <p><b>4N. HUNTSVILLE STATE PARK</b> 6077p. Dams and other improvements; sale of timber.</p> <p><b>5. COUNTY PARKS</b> 6079c. Parks in counties on Gulf having suitable islands.</p>
---	---

## 1. STATE PARKS BOARD

**Art. 6067a. State parks and historical parks under control of State Parks Board; exceptions**

Section 1. All State parks and all historical parks now designated as State parks or historical parks, which specifically includes Goliad State Park, Gonzales State Park, Kings State Park, Governor James Stephen Hogg Memorial Shrine, Lipantitlan State Park, Washington State Park, Acton Park, and Monument Hill State Park, now under the control and custody of the State Board of Control, except the San Jacinto State Park, the San Jacinto Memorial Tower and the Battleship Texas, and Fannin State Park, which shall continue to remain under the supervision and control of the State Board of Control, subject to the provisions of Articles 6071, 6072, and 6073, Revised Civil Statutes of Texas; Senate Concurrent Resolution No. 18, Acts of 1941, Forty-seventh Legislature, Regular Session<sup>1</sup>; and House Concurrent Resolution No. 83, Acts of 1947, Fiftieth Legislature, Regular Session<sup>2</sup>, shall be and are hereby placed under the control and custody of the State Parks Board under the authority conferred upon such Board by Article 6067 of the Revised Civil Statutes of Texas, as amended by Section 1, Chapter 345, of the Acts of the Forty-fifth Legislature, Regular Session of 1937; Article 6068 of the Revised Civil Statutes of Texas, as amended by Section 1, Chapter 174, of the Acts of the Forty-fifth Legislature, Regular Session of 1937, and as later amended by the Acts of the Forty-sixth Legislature, Regular Session of 1939, page 516; Article 6069 of the Revised Civil Statutes of Texas, as amended by Section 1, Chapter 175, of the Acts of the Forty-fifth Legislature, Regular Session of 1937; and other Statutes specifically setting out and defining the rights, powers and duties of the State Parks Board.

Sec. 2. All laws which are in conflict, in whole or in part, which specifically includes Articles 677, 6074, 6075, 6076, 6077, 6077a, and 6077i are hereby repealed. Articles 6071, 6072, and 6073, Revised Civil Statutes of Texas; Senate Concurrent Resolution No. 18, Acts of 1941, Forty-seventh Legislature, Regular Session; and House Concurrent Resolution No. 83, Acts of 1947, Fiftieth Legislature, Regular Session, are not intended to be affected by this Act. All appropriations heretofore made either in or by reference to the historical State parks are hereby in all things ratified

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

and confirmed in behalf of the Texas State Parks Board. Acts 1949, 51st Leg., p. 320, ch. 153.

<sup>1</sup> Laws 1941, page 1430.

<sup>2</sup> Laws 1947, page 1150.

### Art. 6070e. Separate facilities for white and negro citizens

Section 1. Separate facilities shall be furnished in the system of State parks for the white and Negro races, and impartial provision shall be made for both races.

Sec. 2. The State Parks Board is authorized:

(a) To make rules and regulations for the use of the State Parks and the facilities therein by the white and Negro races by providing separate parks or separate facilities within the same parks, on such basis as will furnish equal recreational opportunities and at the same time protect and preserve harmony, peace, welfare, health, and safety of the State and the community;

(b) To close any park or facility or facilities or areas in the State parks where separate equal facilities for the white and Negro races cannot be furnished, and to reopen them when such facilities are available;

(c) To lease annually to the highest bidder any park or any portion thereof, or facility therein, when deemed necessary or advisable for protection and upkeep of the property. Such lease shall be previously advertised once a week for four weeks in a daily or weekly newspaper in the county in which the park is located. If the county has no such newspaper, such advertisement may be run in a similar newspaper in any adjoining county. The Board is authorized to make additional rules for such leasing. The proceeds derived from such lease are hereby appropriated to the State Parks Board to be used for the improvement of the State parks system, and to pay for the expenses of advertising the sale or lease. Acts 1950, 51st Leg., 1st C.S., p. 78, ch. 17.

Effective 90 days after March 1, 1950, date of adjournment.

The act of 1950 contained the following preamble:

"WHEREAS, It has been the policy of the State of Texas to provide separate accommodations and facilities in the system of the State parks; and

"WHEREAS, The necessity for such separation still exists in the interest of public welfare, safety, harmony, health, and recreation; and

"WHEREAS, The State of Texas desires to continue separate accommodations and facilities for both white and negro citizens; now, therefore,"

## 2. SAN JACINTO STATE PARK

### Arts. 6071-6073

Not repealed, see art. 6067a.

## 3. GONZALES STATE PARK

Arts. 6074, 6075. Repealed. Acts 1949, 51st Leg., p. 320, ch. 153, § 2.

Control and custody of Gonzales State Park is transferred from State Board of Control to State Parks Board, by art. 6067a.

## 4. WASHINGTON STATE PARK

Arts. 6076; 6077. Repealed. Acts 1949, 51st Leg., p. 320, ch. 153, § 2.

Control and custody of Washington State Park is transferred from State Board of Control to State Parks Board, by art. 6067a.

## 4A. GOLIAD STATE PARK

Art. 6077a. Repealed. Acts 1949, 51st Leg., p. 320, ch. 153, § 2.

Control and custody of such park is transferred from State Board of Control to State Parks Board, by art. 6067a.

## 4G. KING'S MEMORIAL STATE PARK

Art. 6077i. Repealed. Acts 1949, 51st Leg., p. 320, ch. 153, § 2.

Control and custody of such park is transferred from State Board of Control to State Parks Board by art. 6067a.

## 4M. OIL AND GAS LEASES OF PARK LANDS

Art. 6077o. Leasing for oil and gas

**Board for lease of state park lands created**

Section 1. A Board is hereby created to consist of the Commissioner of the General Land Office, the Attorney General and the Chairman of the State Parks Board, who shall perform the duties hereinafter indicated; the Board shall be known as the "Board for Lease of State Park Lands." The term "Board" wherever it appears hereafter in this Act shall mean the Board for Lease of State Park Lands. This Board shall keep a complete record in writing of all its proceedings.

**Authority of board**

Sec. 2. The Board hereinabove created is hereby authorized to lease to any person or persons, firm or corporation subject to, and as provided for in this Act, for prospecting, or exploring for and mining, producing, storing, caring for, transporting, preserving and disposing of the oil and/or gas therein to all lands or parcels of same included in the following State Parks, to wit: Abilene State Park, Balmorhea State Park, Bastrop State Park, Bentsen-Rio Grande Valley State Park, Buescher State Park, Big Spring State Park, Blanco State Park, Bonham State Park, Caddo Lake State Park, Cleburne State Park, Daingerfield State Park, Davis Mountains State Park, Fort Griffin State Park, Fort Parker State Park, Old Fort Parker State Park, Frio State Park, Garner State Park, Goose Island State Park, Huntsville State Park, Inks Lake State Park, Jim Hogg State Park, Kerrville State Park, Lake Corpus Christi State Park, Longhorn Cavern State Park, MacKenzie State Park, Meridian State Park, Mineral Wells State Park, Mother Neff State Park, Palmetto State Park, Palo Duro Canyon State Park, Possum Kingdom State Park, San Jose Mission State Park, Stephen F. Austin State Park, Thirty-sixth Division State Park, Tyler State Park, Independence State Park, Barreda State Park, Jeff Davis State Park, Katemcy State Park, Love's Lookout State Park, Robinson State Park, Tips State Park, Fannin State Park, Goliad State Park, Gonzales State Park, Kings State Park, Governor James Stephen Hogg Memorial Shrine, Lipantitlan State Park, Acton State Park, and Monument Hill State Park.

**Survey and subdivision; abstracts of title**

Sec. 3. The Board is hereby authorized to cause State Parks lands to be surveyed and subdivided into such lots or blocks as will be conducive or convenient to facilitate the advantageous sale of oil and/or gas

leases thereon and identify such lots and blocks by permanent markings on the ground, and to make such maps and plats as may be thought necessary to carry out the purposes of this Act. The Board shall forthwith obtain authentic abstracts of title to such State Park lands, and cause same to be examined by the Attorney General who shall file written opinions thereon, and said Board shall take such steps as may be necessary to perfect a merchantable title to such lands in the State of Texas. Such Abstracts of Title and the Attorney General's opinion thereon shall be held on file in the General Land Office as public documents for the inspection of any prospective purchasers of oil and gas leases on said lands.

#### **Advertisement for bids**

Sec. 4. Whenever, in the opinion of the Board, there shall be such a demand for the purchase of oil and/or gas leases on any lot or tract of said land as will reasonably insure an advantageous sale, the Board shall place such oil and gas in said land on the market in such blocks or lots as the Board may designate. It shall cause to be advertised a brief description of the land from which the oil and gas is proposed to be sold, and that sealed bids for the purchase of said oil and/or gas by lease will be opened at designated day, at ten o'clock a. m. that day, and that sealed bids received up to that time will be considered. Said advertisements shall be made:

(a) By insertion in two or more papers of general circulation in this State.

(b) By mailing a copy thereof to the county clerk and county judge of every county in this State in which an advertised area may be situated.

(c) In addition to the two foregoing the Board may in its discretion cause advertisement to be placed in oil and gas journals in and out of the State, and to be mailed generally to such persons as they think might be interested.

#### **Bidding**

Sec. 5. All bids shall be directed to the said Board in care of the General Land Office of the State of Texas, and shall be retained by the Commissioner of the General Land Office, until the day designated for the opening of bids, and upon that day the said Board, or a majority of its members, shall open said bids and shall list and file and register all bids and money received. A separate bid shall be made for each whole survey or subdivision thereof. No bid shall be accepted which offers a royalty of less than one-eighth (1/8th) of the gross production of oil and/or gas in the land bid upon, and this minimum royalty may be increased at the discretion of the Board, all members concurring, before the promulgation of the advertisement of the land. Every bid shall carry the obligation to pay an amount not less than One Dollar (\$1) per acre for delay in drilling, such amount to be fixed by the Board in advance of the advertisement, and which shall be paid every year for five (5) years, unless in the meantime production in paying quantities is had upon the land.

#### **Payments accompanying bids; requisites of bids**

Sec. 6. Every bid shall be accompanied by a payment equal to the minimum price fixed on the land per acre for the delay in drilling if the bid is accepted. The bid shall further indicate the royalty the bidder is willing to pay, which royalty shall not be less than one-eighth (1/8th) of the gross production. The bid shall further name such amount as the bidder may be willing to pay in addition to the royalty and in the annual payment herein provided for, and shall be accompanied by cash or checks collectable in Austin to cover said amounts.

**Lease or sale**

Sec. 7. If anyone of the bidders shall have offered a reasonable and proper price therefor, and less than the price fixed by the Board, the lands advertised, or any whole survey or subdivision thereof, may be leased for oil and/or gas purposes under the terms of this Act, and such regulations as the Board may prescribe, not inconsistent with the provisions of this Act. If after any bidding by sealed bids the Board should reject all bids, as it is hereby authorized to do, it may thereafter offer for sale and sell the oil and/or gas in said lands, in separate whole surveys only or subdivisions thereof, by open public auction at a price less than the price offered by the sealed bids. All bids may be rejected. In the event of no sale at public auction, any subsequent procedure for the sale of said oil and gas leases shall be in the manner above provided.

**Filing bids; discontinuance of yearly payments; termination of lease**

Sec. 8. If the Board shall determine that a satisfactory bid has been received for said oil and gas, it shall be filed in the General Land Office. Whenever the royalties shall amount to as much as the yearly payment as fixed by the Board, the yearly payment may be discontinued. If before the expiration of three (3) years oil and/or gas shall not have been produced in paying quantities, the lease shall terminate.

**Rentals not payable during drilling operations; discovery of oil or gas**

Sec. 9. If during the term of any lease issued under the provisions of this Act the lessee shall be engaged in actual drilling operations for the discovery of oil and/or gas on land covered by any such lease, no rentals shall be payable as to the tract on which such operations are being conducted so long as such operations are proceeding in good faith; and in the event oil or gas is discovered in paying quantities on any tract of land covered by any such lease, then the lease as to such tract shall remain in force so long as oil or gas is produced in paying quantities from such tract. In the event of the discovery of oil and/or gas on any tract covered by a lease issued hereunder or on any land adjoining same, the lessee shall conduct such operations as may be necessary to prevent drainage from the tract covered by such lease to properly develop the same. Failure to comply with the obligations provided by this Section shall subject the holder of the lease to penalties provided in Sections 12 and 13 of this Act.

**Duration of rights; assignment; pipe lines, telephone lines and roads**

Sec. 10. Title to all rights purchased may be held by the owners so long as the area produces oil and gas in paying quantities. All rights purchased may be assigned in quantities of not less than forty (40) acres, unless there be less than forty (40) acres remaining in any survey, in which case such lesser area may be so assigned. All assignments shall be filed in the General Land Office within one hundred (100) days after the date of the first acknowledgment thereof, accompanied by ten cents (10¢) per acre for each acre assigned, and if not so filed and payment made, the assignment shall be ineffective. All rights to any whole survey and to any assigned portion thereof may be relinquished to the State at any time by having an instrument of relinquishment recorded in the county or counties in which the area may be situated, and filed in the Land Office accompanied with One Dollar (\$1) for each area assigned but such assignment shall not relieve the owner of any past due obligations theretofore accrued thereon. The Board shall authorize the laying of pipe line, telephone line, and the opening of such roads over State Park

Lands as may be deemed reasonably necessary for and incident to the purposes of this Act.

**Payment of royalty and bonus; sworn statement; inspection of books and accounts**

Sec. 11. Royalty and bonus as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, for the benefit of the State Park Development Fund on or before the 20th day of each succeeding month for the preceding month during the life of the rights purchased, and it shall be accompanied by the sworn statement of the owner, manager or other authorized agent showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipe line receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipe lines, tanks or pools and gas lines or gas storage. The books and accounts, receipts and discharges of all wells, tanks, pools, meters, pipe lines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and/or gas shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General, or any member of the State Parks Board.

**Disposition of money received**

Sec. 11a. It is expressly provided, however, that any royalty or bonus derived from those park lands operated by local park commissions with the advice and consent of the Board of Control shall be paid to the General Land Office at Austin, Texas to the credit of the State Park Development Fund, which fund is hereby created. All moneys or sums so deposited to the State Park Development Fund shall be appropriated and expended by the Legislature.

**Protection from drainage**

Sec. 12. In every case where the area in which oil and/or gas sold shall be contiguous to or adjacent to land not State Park Land, the acceptance of the bid and the sale made thereby shall constitute an obligation on the owner thereof to adequately protect the land leased from drainage from adjacent lands. In cases where the area in which the oil and/or gas is sold at a lesser royalty, the owner shall likewise protect the State from drainage from the land so leased or sold for lesser royalty. Upon failure to protect the land from drainage as herein provided the sale and all rights thereunder may be forfeited by the Board in the manner elsewhere provided herein for forfeitures.

**Forfeiture of lease; damages; specific performance; lien of state**

Sec. 13. If the owner of the rights acquired under this Act shall fail or refuse to make the payment of any sum due thereon, either as rental or royalty on the production, within thirty (30) days after same shall become due, or if such owner or his authorized agent should make any false return or false report concerning production, royalty or drilling, or if such owner shall fail or refuse to drill any offset well or wells in good faith, as required by his lease, or if such owner or his agent should refuse the proper authority to access to the records and other data pertaining to the operations under this Act, or if such owner, or his authorized agent, should fail or refuse to give correct information to the proper authorities, or fail or refuse to furnish the log of any well within thirty (30) days after production is found in paying quantities, or if any of the material terms of the lease should be violated, such lease shall be subject

to forfeiture by the Board by an order entered upon the minutes of the Board reciting the facts constituting the default, and declaring the forfeiture. The Board may, if it so desires, have suit instituted for forfeiture through the Attorney General of the State. Upon proper showing by the forfeiting owner, within thirty (30) days after the declaration of forfeiture, the lease may, at the discretion of the Board and upon such terms as it may prescribe, be reinstated. In case of violation by the owner of the lease contract, the remedy of the State by forfeiture shall not be the exclusive remedy but suit for damages or specific performance, or both, may be instituted. The State shall have a first lien upon all oil and/or gas produced upon the leased area, and upon all rigs, tanks, pipe lines, telephone lines, and machinery and appliances used in the production and handling of oil and gas produced thereon, to secure any amount due from the owner of the said lease.

**Filing papers; payments; appropriation and expenditure**

Sec. 14. All surveys, files, records, copies of sale and lease contracts and all other records pertaining to the sales and leases hereby authorized on State Park Land under the control of State Parks Board, shall be filed in the General Land Office and constitute archives thereof. Payment hereunder shall be made to the Commissioner of the General Land Office at Austin, Texas, who shall transmit to the State Treasurer all bonus payments and royalty for deposit to the credit of the State Park Development Fund, and all rentals for delay in drilling and all other payments, including all filing assignments and relinquishment fees hereunder to the credit of the State Park Development Fund. All moneys or sums so deposited to the State Park Development Fund shall be appropriated and expended by the Legislature for the development, improvement and maintenance of State Parks.

**Park lands operated by local park commissions**

Sec. 14a. Provided, however, that all bonus payments, royalty payments, delay rentals and all other payments paid in connection with park lands operated by local park commissions with the advice and consent of the Board of Control shall be paid to the State Park Development Fund.

**Payment of expenses**

Sec. 15. The expenses of executing the provisions of this Act shall be paid monthly by warrants drawn by the Comptroller on the State Treasurer, and for that purpose the sum of Two Thousand Dollars (\$2,000), or as much thereof as may be necessary is hereby appropriated out of any money in the Treasury not otherwise appropriated until September 1, 1951.

**Partial unconstitutionality**

Sec. 16. If any provision hereof should be held unconstitutional, the balance of the Act shall not be affected thereby.

**Powers of board**

Sec. 17. The Board shall adopt proper forms and regulations, rules and contracts as will in its best judgment protect the income from lands leased hereunder. A majority of the Board shall have power to act in all cases, except where otherwise herein provided. The Board may reject any and all bids and shall have the further right to withdraw any lands advertised for lease prior to receiving and opening bids. Any and all or parts of laws in conflict with this Act are hereby repealed. Acts 1949, 51st Leg., p. 773, ch. 416.

## 4N. HUNTSVILLE STATE PARK

## Art. 6077p. Dams and other improvements; sale of timber

Section 1. The State Parks Board is hereby authorized to repair, build or construct a dam or dams on the rivers or streams running through Huntsville State Park for the purpose of impounding the waters thereof and forming reservoirs or lakes, and other improvements, to be used for recreational and park purposes, and to work in conjunction and cooperation with other governmental agencies in carrying out the purposes of this Act. It is further provided that no such dam shall be built or constructed until after the State Board of Water Engineers has granted a permit therefor. To pay for the repairing, building or construction of such dam or dams or other improvements, the State Parks Board is hereby authorized to sell the timber or any part thereof from the lands comprising said Huntsville State Park and to use whatever amount of said timber is necessary to repair, build or construct the improvements herein authorized; provided, however, that the timber to be sold or used shall be selectively cut under the supervision of the Texas Forest Service; provided further, that the amount of timber to be sold shall not exceed the sum of Two Hundred Fifty Thousand (\$250,000.00) Dollars.

Sec. 2. The timber herein authorized to be sold shall be sold on competitive bids, the contract to be awarded to the party or parties who, in the judgment of the Texas Forest Service, has submitted the highest and best bid. Such contract, however, shall not be let until the same has been approved by the State Parks Board. The Texas Forest Service shall advertise for a period of two weeks in at least one weekly newspaper, published and circulated in Walker County, for the sale of such timber or any part thereof, giving the necessary information pertaining thereto, and the time and place for receiving such bids. The first publication shall be at least ten days before the date of receiving the bids. All such competitive bids shall be kept on file by the Texas Forest Service as part of their records and shall be subject to inspection by anyone desiring to see them. Copies of such bids shall be furnished to the State Parks Board. The Texas Forest Service shall have the right to reject any and all of said bids and re-advertise for new bids.

Sec. 3. There is hereby created a special fund to be known as the "Huntsville State Park Building Fund". The moneys derived from the sale of timber cut from the lands of said park shall be placed in the State Treasury to the credit of the above designated fund and shall be expended by the State Parks Board in accordance with the provisions of this Act. Acts 1949, 51st Leg., p. 848, ch. 463.

Section 4 repeals all conflicting laws and parts of laws.

Section 5 provided that unconstitutionality of any part of the act shall not affect the remaining portions.

## 5. COUNTY PARKS

## Art. 6079c. Parks in counties on Gulf having suitable islands

**Delegation of authority**

Section 1. Any county in this State, which borders on the Gulf of Mexico and within the boundaries of which is located any island or islands suitable for park purposes, may, for the purpose of equipping, maintaining and operating any public park or parks owned by said county, by resolution of the Commissioners Court of said county, confer upon, dele-



gate to and grant to a Board of Park Commissioners, as hereinafter provided, full and complete authority to equip, maintain and operate such park or parks.

**Personnel of board of park commissioners**

Sec. 2. The Board of Park Commissioners shall be composed of seven (7) members. When the Commissioners Court of any such County adopt a resolution as aforesaid then the County Judge of such County shall appoint seven (7) persons as members comprising the Board of Park Commissioners for such county. Three (3) of the Commissioners who are first so appointed shall be designated to serve for terms of six (6) years, two (2) of the Commissioners who are first so appointed shall be designated to serve for terms of four (4) years, and the remaining Commissioners who are first so appointed shall be designated to serve for terms of two (2) years, respectively, from the date of their appointments, but thereafter Commissioners shall be appointed as aforesaid for a term of office of six (6) years; in the event of any vacancy the County Judge shall fill said vacancy by appointment for the unexpired term. No Commissioner may be an officer or employee of the county for which the Board of Park Commissioners is created, or an officer or employee of any city located in said county. A Commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or re-appointment of any Commissioner shall be filed with the County Clerk and such certificate shall be conclusive evidence of the due and proper appointment of such Commissioner. A Commissioner shall receive no compensation for his services but he shall be entitled to the necessary expense, including traveling expenses, incurred in the discharge of his duties.

**Powers vested in commissioners; quorum; necessary vote; officers, agents and employees**

Sec. 3. The powers of each Board of Park Commissioners shall be vested in the Commissioners thereof in office from time to time. Four (4) Commissioners shall constitute a quorum of the Board for the purpose of conducting its business and exercising its powers, and for all other purposes. Action may be taken by the Board upon a vote of a majority of the Commissioners present. The County Judge shall designate which of the Commissioners appointed shall be the first Chairman of the Board, but when the office of the Chairman of the Board thereafter becomes vacant the Board shall select a Chairman from among its Commissioners. The Board of Park Commissioners shall select from among its own members a Vice-Chairman, and it may employ a secretary, technical experts, and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require the Board of Park Commissioners may call upon the County Attorney of the County for which it is created, or the Board may employ, and compensate, its own counsel and legal staff.

**Personal interest**

Sec. 4. No Commissioner or employee of the Board of Park Commissioners shall acquire any interest, direct or indirect, in any improvements, concessions, equipment or any business located within the confines of any public park administered by such Board of Park Commissioners, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any such public work.

**Contracts; disbursements**

Sec. 5. Such Board of Park Commissioners shall have full and complete authority to enter into any contract connected with or incident to the equipping, maintaining or operating such park or parks, and in this connection shall have authority to disburse and pay out all funds set aside by such county for the purpose connected with park or parks, and such action by such Board of Park Commissioners shall bind, in all things, such county as though such action had been taken by the Commissioners Court of such county.

**Financial statement; appropriations**

Sec. 6. Once each year such Board of Park Commissioners shall prepare and present to the Commissioners Court of the said county a complete financial statement of the financial status of such park or parks, and submit therewith a proposed budget of the anticipated financial needs of such park or parks for the ensuing year. On the basis of such financial statement and budget the Commissioners Court of such county shall appropriate or set aside for the use of such Board of Park Commissioners in the operation of such park or parks the amount of money which it deems proper and necessary for such purpose.

**Expenditures; examination and approval of budget**

Sec. 7. In connection with the equipping, operating and maintenance of such park or parks, such Board of Commissioners shall have the authority to determine the manner of expending any funds that may have been provided by such county for such purposes, whether by the issuance of bonds or other obligations, or by appropriations from other funds of such county, it being the intention by this Act to grant to such Board of Park Commissioners the complete authority to manage and control all matters affecting such park or parks, provided, that as to any funds raised by taxation or by the issue of bonds nothing in this Act shall be construed as authorizing such Board to expend any such funds raised by taxation or by bonds for any purposes other than the purposes for which the said taxes were raised or the bonds were voted; and, further, reserving to such County Judge the right to appoint members to such Board of Park Commissioners and to the Commissioners Court the right to examine and approve the annual budget as hereinbefore provided.

**Removal of commissioners**

Sec. 8. For inefficiency or neglect of duty or misconduct in office, a Commissioner of the Board of Park Commissioners of any such county may be removed by the County Judge thereof, but a Commissioner shall be removed only after he shall have been given a copy of the charges at least ten (10) days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel at said hearing; the time and place for any such hearings shall be set by the County Judge. In the event of the removal of any Commissioner, a record of the proceedings, together with the charges and findings thereon shall be filed in the office of the County Clerk.

**Act cumulative**

Sec. 9. This Act is cumulative of all other Acts relating to county parks.

**Partial invalidity**

Sec. 10. Should any paragraph, sentence, part or portion of this Act be declared by the courts to be unconstitutional such declaration shall not

affect the remaining portions of this Act, and said remaining portions shall remain in full force and effect. Acts 1949, 51st Leg., p. 408, ch. 218.

## 6. CITY PARKS

### Art. 6081d. Condemnation or purchase of lands without city limits for parks and playgrounds

#### Regulations of use; privileges or concessions

Sec. 5. All parks and playgrounds acquired and maintained under the provisions of this Act shall be open to the use of the public under such reasonable rules and regulations as the governing body having the control and management of the same may from time to time prescribe. However, no person, firm, association of persons, or corporation, shall have the right in any such park or playground to offer anything for barter or sale, or exhibit anything for pay or conduct any place of amusement for which an admission fee is charged or render personal service or transportation of any character for hire without having first obtained from such governing body the privilege of so doing under such rates of payment therefor and such other terms and conditions as may be agreed upon with such governing body, and all revenues arising from the grants of such privileges or concessions shall be devoted to the support, maintenance, upkeep and improvement of the city's parks and playgrounds and the facilities, structures, and improvements therein. Acts 1931, 42nd Leg., p. 105, ch. 70.

## TITLE 106—PATRIOTISM AND THE FLAG

### Art. 6145—1. Governor James Stephen Hagg Memorial Shrine

Arts. II, III. Repealed. Acts 1949, 51st Leg., p. 1373, ch. 625, § 1.

Control and custody of Governor James Stephen Hagg Memorial shrine transferred from State Board of Control to State Parks Board, see art. 6067a.

## TITLE 108—PENITENTIARIES

### 1. PRISON COMMISSION

#### Art. 6166m—2. Weekly reports by depositories to State Treasurer

Acts 1935, 44th Leg., 1st C.S., p. 1600, ch. 403, which created an Industrial Revolving Fund of the Texas Prison System, was repealed by Acts 1949, 51st Leg., p. 125, ch. 76, § 1.

### 2. REGULATIONS AND DISCIPLINE

#### Art. 6184/. 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; provided, however, that for State-approved trustees thirty (30) days deduction per month shall be made from the term or terms of all sentences of such State-approved trustees, 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 of 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 to appeal to the Texas Prison Board, whose decision shall be final.

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, and reclassify any of such prisoners 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 1949, 51st Leg., p. 17, ch. 21, § 1.

#### Art. 6203c. Improvement of prison system

##### Sale of prison products

Sec. 9. (a) Authority is hereby given to the Texas Prison Board and the State Board of Control to enter into contracts whereby the Texas Prison Board may sell to the State Board of Control for the use of the State of Texas, or any of its departments, board, commissions, and institutions of every kind and character, any product or article manufactured or produced by the Texas Prison System, said products to be used solely in departments, boards, commissions, and institutions which are owned and operated entirely by said State of Texas; and it is hereby made the duty of the State Board of Control to purchase all such products when needed for the aforesaid purpose whenever it is economical to do so. When such products are sold to the State Board of Control, the charge for any product, which the law permits the Texas Prison Board to sell in the open market, shall be at a price to be agreed upon by the General Manager of the Texas Prison System and the State Board of Control, not to exceed the price at which products of the same or equal quality could be purchased by the State Board of Control on the open market. The charge for any product which the law prohibits the Texas Prison Board from selling in the open market shall be at a price agreed upon by the General Manager of the Texas Prison System and the State Board of Control, not to exceed the price at which products of the same or equal quality could be purchased by the State Board of Control on the open market.

(b) No sale of products manufactured by the Texas Prison System shall be made except as above authorized; provided, however, the Texas Prison Board shall have the power to authorize the General Manager of the Texas Prison System to sell and dispose of all surplus agricultural

products and all personal property owned by the Texas Prison System, which have not been manufactured by the System for the purpose of sale, at such prices and on such terms and under such rules and regulations as it deems best to adopt.

(c) The Texas Prison Board shall not sell to the State of Texas, its agencies or subdivisions, any of the products or services referred to in Article 16, Section 21, of the Constitution of the State of Texas. As amended Acts 1949, 51st Leg., p. 124, ch. 75, § 1.

Section 2 of the amendatory act of 1949, for any reason be declared invalid, then read as follows: "It is the legislative intent that if any clause, section, sentence, paragraph or subdivision of this bill shall such invalidity shall not affect any other clause, section, sentence, paragraph or subdivision."

## TITLE 109—PENSIONS

## 1. STATE AND COUNTY PENSIONS

Art.

6227a. Siege of Bexar and battle of San Jacinto; pensions to survivors and widows.

6228b. Retirement of justices, judges and commissioners of appellate and district courts.

6228c. Employees Retirement System and Teachers Retirement System; credit for prior service creditable under other system.

Art.

6228d. Death before retirement under county retirement systems.

## 2. CITY PENSIONS

6243h—1. Loan from General Revenue Fund to Municipal Retirement System.

6243i. Police officers' pension system in cities of 175,000 to 240,000 population.

*Corporations, power of directors to pay pensions, see art. 1327a.*

## 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 One Hundred Dollars (\$100) per month for each year; provided that any widow who has been granted a pension, and who is thereafter admitted as an inmate of the Confederate Home of this State, shall thereafter be paid the sum of Twenty-five Dollars (\$25) per month, so long as she shall remain 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 1949, 51st Leg., p. 534, ch. 296, § 1.

## Art. 6227a. Siege of Bexar and battle of San Jacinto; pensions to survivors and widows

Section 1. There shall be paid, and there is hereby granted, an annual pension of Two Thousand, Four Hundred (\$2,400.00) Dollars to every surviving indigent soldier or indigent volunteer who was in the actual military or naval service of Texas at the time of the siege of Bexar in December, 1835, or at the time of the Battle of San Jacinto in April, 1836, and who actually participated in any battle in Texas in 1836, or who was in such actual military service for as much as six (6) weeks between the commencement of the Revolution at Gonzales in 1835 and the 1st day of January, 1837, and to every indigent surviving widow of any such soldier or volunteer so long as such widow may live.

Sec. 2. Each applicant for a pension under this law shall make application in writing for the same to the County Judge of his or her residence stating the name, age and residence of the applicant, and in the case of a widow the name of the soldier or volunteer to whom she was married, and shall state the period of service during which said soldier or volunteer was in actual military service. Such application shall be signed and sworn to by the applicant and forwarded by the County Judge

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

to the Comptroller of Public Accounts of the State of Texas, who shall thereon forthwith pay such pension to such applicant in monthly installments so long as he or she shall live; provided only that the Comptroller may investigate and determine the genuineness of said application, and upon being satisfied that same is genuine, he shall proceed as above provided. Acts 1949, 51st Leg., p. 1094, ch. 557.

Section 3 of this act repeals all conflicting laws and parts of laws.

## Art. 6228a. Retirement system for State employees

### Definitions

Section 1. R. "Prior Service Annuity" shall mean payment each year for life of two per cent (2%) of a member's average prior service compensation, as defined in this Act, multiplied by the number of years of Texas service in his prior service certificate; provided that the maximum number of years of prior service to be allowed shall be thirty-six (36), and in computing his average prior service compensation, the maximum prior service salary in any one year shall be Three Thousand Six Hundred Dollars (\$3,600). All prior service annuities shall be payable in equal monthly installments. As amended Acts 1949, 51st Leg., p. 373, ch. 197, § 1.

### Membership

Sec. 3. The membership of said Retirement System shall be composed as follows:

A. All persons who are employees on the date as of which the Retirement System is established shall become members as of that date as a condition of their employment unless within a period of ninety (90) days after September 1, 1947, any such employee shall file with the State Board of Trustees on a form prescribed by such Board, a notice of his election not to be covered in the membership of the System and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the Retirement System. The following persons shall, however, not be eligible for participation in the Retirement System:

1. Members of the State Legislature or any incumbent of an office normally filled by a vote of the people, nor any person who is covered by the Teachers Retirement System or any retirement system supported with State funds other than the Texas Employees Retirement System.

2. Persons employed on a piecework basis or operators of equipment or drivers of teams whose wages are included in the rental rate paid the owners of said equipment or team.

3. Employees who are employed less than nine hundred (900) hours per year.

B. Any person who becomes an employee on or after the date of establishment of the System shall, upon the completion of three (3) months of continuous service uninterrupted by a break of more than one (1) month, become a member of the System as a condition of employment, provided said person is less than sixty (60) years of age at the time of completion of said three (3) months of service. Contribution by such employee under this Act shall begin with the first payroll period after said three (3) months service shall have been completed and creditable service shall then begin to accrue. As amended Acts 1949, 51st Leg., p. 935, ch. 509, § 1.

C. Should any member in any period of six (6) consecutive years after becoming a member be absent from service more than sixty (60) consecutive months he would automatically terminate membership if he had less than fifteen (15) years creditable service, or should he withdraw



his accumulated contributions, or should he become a beneficiary, or upon death, he shall thereupon cease to be a member. However, during the time the United States is in a state of war and for a period of twelve (12) months thereafter time spent by a member of the Employees Retirement System (1) in the Armed Forces of the United States of America and their auxiliaries and/or in the Armed Forces Reserve of the United States of America and their auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereinto, or (2) in war work as a direct result of having been drafted and/or conscripted into said war work, shall not be construed as absent from service in so far as the provisions of this Act are concerned, but shall count towards membership service.

D. Any employee who elects not to become a member of the Retirement System as herein provided as of September 1, 1947, and the ninety (90) days next following, may make application thereafter and be entitled to membership but without claim for prior service credit.

E. Anyone who has been employed in the State of Texas in accordance with the terms of this Act, but who is not in service at the time in which the Act becomes effective, shall, if he becomes an employee within two (2) years of the date on which this Act becomes effective, and if he continues as such for a period of five (5) consecutive years, be entitled to receive credit and resulting benefits for prior service as provided for in this Act.

F. Any member may withdraw from the Service prior to the attainment of sixty (60) years who shall have completed at least fifteen (15) years of service and shall be eligible for service retirement allowance upon attainment of the age of sixty (60) years or later at his option.

G. Any employee who has attained the age of sixty (60) years and has had ten (10) or more years of service when this Act becomes effective, and who elects to become a member of the System, may remain in the State's service past the age of sixty-five (65) years as long as he is capable of serving the State efficiently in any position in which he is employed but upon attaining the age of seventy (70) years such employee shall cease to be a participating member of the Retirement System and shall become ineligible to receive any benefits from the System except such benefits to which he would have been lawfully entitled if he had retired at the age of seventy (70) years, provided, however, no person shall ever become eligible for a service retirement allowance until he has actually retired from the State's service. As amended Acts 1949, 51st Leg., p. 416, ch. 222, § 1.

#### Benefits

##### Sec. 5. A. Service Retirement Benefits.

Any member may retire upon written application to the State Board of Trustees, setting forth at what time, not less than thirty (30) days or more than ninety (90) days subsequent to the execution of and filing thereof, he desires to be retired, provided that retirement will be effective only as of the last day of a calendar month, and provided that the said member at the time so specified for his retirement shall have attained the age of sixty (60) years and shall have completed ten (10) or more years of creditable service. Any member in service who has attained the age of sixty-five (65) years shall be retired forthwith, provided that with the approval of his employer he may remain in service until seventy (70) years of age, at which date he shall be retired regardless of position with the State.

Any member may withdraw from service prior to the attainment of the age of (60) years who shall have completed at least fifteen (15) years of creditable service and shall become entitled to a service retirement al-

lowance upon his attainment of the age of sixty (60) years, or at his option, at any date subsequent to his attainment of said age provided that such member was then living and had not withdrawn his contributions.

Any member may withdraw from service prior to the attainment of the age of sixty (60) years who shall have completed at least thirty (30) years of creditable service and shall become entitled to a service retirement allowance immediately regardless of attained age.

B. Allowance for Service Retirement.

Upon retirement from service a member shall receive a service retirement allowance consisting of a membership annuity, which shall be the actuarial equivalent of his membership annuity reserve, and a prior service annuity to which his creditable service and membership in the Retirement System entitles him under the provisions of this Act.

1. His membership annuity reserve shall be derived from:

a. His accumulated contributions credited to his account in the Employees Saving Fund at the time of retirement; and

b. An additional sum from the State Membership Accumulation Fund equal to the accumulated contributions provided by the member in Paragraph a, Part 1, of this Subsection.

2. If he has a prior service certificate in full force and effect, the prior service annuity shall be two per cent (2%) of his average prior service compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior service certificate; provided that the maximum number of years of prior service to be allowed shall be thirty-six (36) years and that in computing his average prior service compensation, the maximum prior service salary for any one (1) year shall be Three Thousand, Six Hundred Dollars (\$3,600). In computing the average prior service compensation for employees who served in the Armed Forces on leaves of absence from the State and subsequently became members of the System, that time spent in the Armed Forces shall be counted as part of the ten (10) years immediately preceding the enactment of the Law and the basis for compensation shall be the same that was earned at commencement of his leave of absence from the State. As amended Acts 1949, 51st Leg., p. 373, ch. 197, § 2.

C. Disability Retirement Benefits.

Upon the application of a member or his employer or his legal representative acting in his behalf, any member who has had ten (10) or more years of creditable service may be retired by the State Board of Trustees, not less than thirty (30) and not more than ninety (90) days next following the days next following the date of filing such application, on a disability retirement allowance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

D. Allowance on Disability Retirement.

Upon retirement for disability a member shall receive a service retirement allowance if he has attained the age of sixty (60) years; otherwise, he shall receive a disability retirement allowance consisting of a membership annuity which shall be the actuarial equivalent of his membership annuity reserve, and a prior service annuity to which his creditable service and membership in the Retirement System entitles him under the provisions of this Act.

1. His membership annuity reserve shall be derived from:

a. His accumulated contributions credited to his account in the Employees Saving Fund at the time of retirement; and

b. An additional sum from the State Membership Accumulation Fund equal to the accumulated contributions provided by the member in Paragraph a, Part 1, of this Subsection.

2. If he has a prior service certificate in full force and effect, he shall receive a prior service annuity equal to the prior service annuity provided in Part 2, Subsection B, Section 5, of this Act.

E. Beneficiaries Retired on Account of Disability.

Once each year during the first five (5) years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the State Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or any other place mutually agreed upon, by a physician or physicians designated by the State Board of Trustees. Should any disability beneficiary who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such periods by a physician or physicians designated by the State Board of Trustees, his allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his allowance shall be revoked by the State Board of Trustees.

1. Should the Medical Board report and certify to the State Board of Trustees that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, or that such disability beneficiary is engaged in or is able to engage in gainful occupation, and should the State Board of Trustees by a majority vote concur in such report, then the amount of his allowance shall be discontinued or reduced to an amount by which the amount of the last year's salary of the beneficiary, as an employee, exceeds his present earning capacity. Should his earning capacity be later changed, the amount of his allowance may be further modified; provided that the revised allowance shall not exceed the amount of the allowance originally granted, nor shall it exceed an amount which, when added to the amount earnable by the beneficiary, equals the amount of his compensation for the last year prior to retirement.

2. Should a disability beneficiary under the age of sixty (60) years be restored to active service, his retirement allowance shall cease, he shall again become a member of the Retirement System, and any reserve on his membership annuity at the time in the Membership Annuity Reserve Fund shall be transferred to the Employee Saving Fund and to the State Membership Accumulation Fund, respectively, in proportion to the original sum transferred to the Membership Annuity Reserve Fund at retirement. Upon restoration to membership, any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his membership service. No member eligible to retire for service at sixty (60) years of age shall be allowed to retire on a disability allowance. Should a disability beneficiary die or be removed from the disability list for any cause other than restoration to active service, an amount equal to the amount by which such beneficiary's accumulated contributions at the time of disability retirement exceed the membership service annuity payments received by such beneficiary under his disability allowance, if any such excess exists, shall be paid from the Membership Annuity Reserve Fund to such beneficiary if living; otherwise, such amount shall be paid as provided by the laws of descent and distribution of Texas unless the beneficiary has directed such amount to be paid otherwise.

**F. Return of Accumulated Contributions.**

Should a member with less than fifteen (15) years creditable service cease to be an employee except by death or retirement under the provisions of this Act, he shall be paid in full the amount of the accumulated contributions standing to the credit of his individual account in the Employees Saving Fund. Should a member die before retirement, the amount of his accumulated contributions standing to the credit of his individual account shall be paid as provided by the laws of descent and distribution of Texas unless he has directed the account to be paid otherwise. Seven (7) years after such cessation of service, if no previous demand has been made, any accumulated contributions of a contributor shall be returned to him or to his heirs. If the contributor or his heirs cannot then be found, his accumulated contributions shall be forfeited to the Retirement System and credited to the Permanent Retirement Fund.

**G. Optional Allowances for Service Retirement.**

With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any service benefit becomes normally due, any member may elect to receive his membership annuity in an annuity payable throughout life, or he may elect to receive the actuarial equivalent at that time, of his membership annuity in a reduced membership annuity payable throughout life with the provisions that:

Option (1) Upon his death, his reduced membership annuity shall be continued throughout the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (2) Upon his death, one-half (1/2) of his reduced membership annuity shall be continued through the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (3) Some other benefit or benefits shall be paid either to the member, or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the reduced membership annuity, shall be certified by the actuary to be of equivalent actuarial value to his membership annuity, and approved by the State Board of Trustees.

With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any service benefit becomes normally due, any member may elect to receive his prior service annuity in an annuity payable throughout life or he may elect to receive the actuarial equivalent at that time, of his prior service annuity in a reduced prior service annuity payable as provided in option (1), (2), or (3) above, provided that all payments under all prior service annuities are subject to adjustment by the State Board of Trustees as provided in Section 5, Subsection B, Part 2, of this Act; provided further, that the same option must be selected by the member for the payment of his prior service annuity as is selected by the member for the payment of his membership service annuity.

**H. Credit for Military Service.**

During the period of time the United States is in a state of war and for a period of twelve (12) months thereafter, time spent by a member of the Employees Retirement System (1) in the Armed Forces of the United States and their auxiliaries or in the Armed Forces Reserve and their auxiliaries or in the American Red Cross, or (2) in war work as a direct result of having been drafted or conscripted into said war work, shall count to-

wards membership service. In addition, a member of the Employees Retirement System shall be permitted to contribute each year to the Retirement System a sum not to exceed the amount contributed by him to said Retirement System during the last year that he was employed as a member under the provisions of the Retirement Act. The funds so contributed shall be deposited to the credit of the member's individual account and shall be treated in the same manner as funds contributed by the member while he was employed by the State. Any employee of the State who entered military service prior to the establishment of the Retirement System, either by induction or enlistment, will be entitled to prior service credit for the time prior to establishment of the System and membership service for the time subsequent to the establishment of the System. Any employee so absent shall have the right to contribute to said System either during his service with Armed Forces or upon return an amount equal to the contributions which would have been made by him based on his compensation earnable at commencement of his absence, provided such employee re-enters the service of the State within sixty (60) days after the termination of his military service and elects to become a member of the System within sixty (60) days after such re-employment.

In computing the average prior service compensation for employees who served in the Armed Forces on leaves of absence from the State and subsequently became members of the System, that time spent in the Armed Forces shall be counted as part of the ten (10) years immediately preceding the enactment of the law and the basis for compensation shall be the same that was earned at commencement of his leave of absence from the State. As amended Acts 1949, 51st Leg., p. 416, ch. 222, § 2.

#### Administration

##### Sec. 6. A. State Board of Trustees.

2. The Board shall consist of seven (7) Trustees as follows:
  - a. The State Life Insurance Commissioner, ex officio.
  - b. The Chairman of the State Board of Control of Texas, ex officio.
  - c. The Chairman of the Texas Highway Commission, ex officio.
  - d. Attorney General, ex officio.
  - e. Three (3) of the Trustees, ex officio, shall be employee-members of the Retirement System and shall be nominated and elected by the members of the Retirement System for a term of six (6) years each, according to such rules and regulations as the State Board of Trustees shall adopt to govern such nominations and elections, provided that the first three (3) employees to serve as ex officio members of the State Board of Trustees shall be elected by the members of the Retirement System at an election to be held under such rules and regulations as the State Board of Trustees shall adopt, and such election shall be held on or before July 31, 1949, and that, further, the said first three (3) elected ex officio members shall immediately take the oath prescribed and draw for terms of office to expire August 31, 1951, August 31, 1953, and August 31, 1955. Thereafter, an election shall be held on or before July 31, 1951, and biennially thereafter for the purpose of nominating and electing an employee who is a member of the Retirement System to serve as an ex officio member of the Board of Trustees for a period of six (6) years, and said employee after being duly elected shall take the prescribed oath and begin his term as an ex officio member on the first day of September next following the election. It is further provided that all elections held on or after July 31, 1951, shall be on ballots made available to the members by the Board of Trustees. It is further provided that it shall be the additive and cumulative duty of every employee, who is a member of the Employees Retirement System to serve as an ex officio member of the Board of Trus-

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

tees after being nominated and elected as provided in this Act. As amended Acts 1949, 51st Leg., p. 724, ch. 388, § 1.

3. Vacancies of elected ex officio employee-members of the Board of Trustees shall be filled by the Board from among members of the System. Provided, however, that no employee of a department shall be eligible to serve as an elected ex officio employee-member of the Board of Trustees, during the term of an elected ex officio employee-member of the Board of Trustees who is also employed by the same department. As amended Acts 1949, 51st Leg., p. 724, ch. 388, § 1.

Subsection B of section 3 as originally enacted in 1947 and as amended by acts 1949, 51st Leg., p. 416, ch. 222, § 1 provided as follows: "B. Any person who becomes an employee on or after date of establishment of the System shall, upon the completion of nine (9) months of continuous service uninterrupted by a break of more than one month, become a member of the System as a condition of employment, provided said person is less than sixty (60) years of age at the time of completion of said nine (9) months of service. Contribution by such employee under this Act shall begin with the first payroll period after said nine (9) months service shall have been completed and creditable service shall then begin to accrue. Any such employee on becoming a member of the System, after service of said nine (9) months, may elect to personally make a lump sum contribution directly to the System for the said nine (9) months of service rendered prior to membership, under rules and regulations established by the Board of Trustees, and membership service shall then be granted for the said period, provided said contribution shall be made within a period of three (3) months from date said employee became a member of the system."

Section 3 of Acts 1949, 51st Leg., p. 416, ch. 222, read as follows: "If any part, section, subsection, paragraph, sentence, clause, phrase or word contained in this Act, or the application thereof to any person or circumstances, shall be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision or holding shall not affect the validity of the

remaining portions or provisions of this Act, and the Legislature hereby declares it would have passed such remaining provisions without the invalid provisions, and to this end the provisions of this Act are declared to be severable. All laws or parts of laws that are inconsistent with the provisions of this Act, or that conflict herewith are, insofar as such inconsistency or conflict exists, hereby repealed and this Act shall prevail over any conflicting provision of law. It is provided, however, that Chapter 352, Acts of the Regular Session of the Fiftieth Legislature, or its application to any person or circumstances, and all benefits and obligations created by virtue thereof before the effective date of this amendatory Act, shall be and remain valid and binding until the effective date of this Act."

Section 3 of Acts 1949, 51st Leg., p. 373, ch. 197, read: "It is expressly provided that monthly payments, payable sixty (60) days or more after the passage of this Act under prior service annuities which became effective prior to the passage of this Act, or which becomes effective within sixty (60) days from and after the passage of this Act shall be computed on the same basis and in the same manner as monthly payments under prior service annuities for members whose retirement is effective later than sixty (60) days after the effective date of this amending Act."

Section 2 of Acts 1949, 51st Leg., p. 724, ch. 388, provided that unconstitutionality of any part of the act should not affect the remaining portions. Section 3 repeals all conflicting laws and parts of laws.

## Art. 6228b. Retirement of justices, judges and commissioners of appellate and district courts

### Definitions

Section 1. The following words and phrases as used in this Act shall, unless a different meaning is clearly required by the context, have the following meanings, respectively:

(a) "Court" or "Courts" shall include only The Supreme Court, The Court of Criminal Appeals, Commissions to any of the Courts named herein, The Courts of Civil Appeals, District Courts and Criminal District Courts, of Texas.

(b) "Judge" and "Judges" shall include all Commissioners, Judges and Justices of Appellate Courts, Judges of District Courts and Criminal District Courts, and none others.

**Right to retire at 65; retirement pay**

Sec. 2. Any Judge in this State may, at his option, retire from regular active service after attaining the age of sixty-five (65) years and after serving on one (1) or more of the Courts of this State at least ten (10) years continuously or otherwise, provided that his last service prior to retirement shall be continuous for a period of not less than one (1) year. If he retires under the provisions of this Act and complies with the requirements of this Act he shall, during the remainder of his lifetime, receive retirement pay from the State of Texas in monthly installments, in a sum equal to five per cent (5%) of the amount he was receiving from the State of Texas at the time of retirement, multiplied by the number of years of service on one or more of the Courts of the State; provided, however, that the amount of retirement pay shall in no case be more than fifty per cent (50%) of the total amount being received by him annually from the State of Texas at the time of retirement; and such amount of retirement pay shall not be reduced during the lifetime of the Judge coming under the provisions of this Act.

**Credit for service in armed forces**

Sec. 2A. The time served in the armed forces of the United States government during the time of war by any Judge coming within the purview of this Statute shall be credited to the length of judicial service, if such services in the armed forces of the United States government were during the elective tenure of such Judge.

**Right to retire for disability**

Sec. 3. If a Judge has served on one (1) or more of the Courts of this State at least ten (10) years, continuously or otherwise, and because of disability can no longer perform his regular judicial duties as such Judge, he shall be retired from regular active service, irrespective of his age, and shall be entitled to retirement pay during the remainder of his lifetime or during the period of such disability, under the same conditions and limitations as provided in Section 2 of this Act. The period of disability as provided in this Section shall be determined as provided in Section 9 of this Act.

**Proof of physical incapacity**

Sec. 3A. Any Judge coming within the purview of this Statute who shall apply for retirement by reason of physical incapacity shall file with the Supreme Court of Texas written reports by two (2) licensed physicians of the State of Texas fully reporting the claimed physical incapacity; and the Chief Justice of the Supreme Court of Texas is hereby vested with the authority to appoint a licensed physician of the State of Texas to make any additional medical investigation they deem necessary.

**Judges of abolished courts; continuity of service**

Sec. 4. Any person who was, or but for the abolishment of such Court before the expiration of his term of office would have been, serving as a Judge of a Court of this State at the time the Retirement Amendment, House Joint Resolution No. 39, was adopted November 2, 1948, and who had served on one (1) or more of the Courts of this State at least ten (10) years, continuously or otherwise, and had attained the age of sixty-five (65) years at the time of the adoption of the Retirement Amendment, shall be deemed to come within the provisions of this law and be entitled to receive retirement pay under the same terms and limitations provided in Section 2 of this Act, regardless of whether he is now serving on a

Court of this State. Any person who has served on one (1) or more Courts of this State as defined herein for twenty-five (25) years or more at any time, continuously or otherwise, provided that his last service prior to the date of retirement shall have been continuous for a period of not less than ten (10) years, shall likewise be entitled to retirement pay under the provisions of this Act.

#### **Contributions and appropriations**

Sec. 5. From and after the effective date of this Act every Judge of this State shall contribute five per cent (5%) of his annual salary paid by the State to assist in carrying out the provisions of this Act. One-twelfth (1/12) of such amount shall be deducted by the State Comptroller each month from the salary of such Judge and the balance only paid him by the Comptroller. The amount deducted shall remain in the State General Fund and be subject to appropriation by the State Legislature as other moneys in said fund. The Legislature shall appropriate such sums of money as may be necessary to carry out this Act.

#### **Repayment of contributions; removed judges ineligible**

Sec. 6. Should any Judge of any Court of this State die, resign or cease to be a Judge of a Court of this State, except in the event of his appointment or election to a Court of higher rank, prior to the time he shall have been retired as provided under the provisions of this Act, the amount of his accumulated contributions shall be paid to his beneficiary nominated by written designation duly filed with the Chief Justice of the Supreme Court, or to him, as the case may be. Provided, however, that if he later becomes a Judge of a Court of this State he must pay back to the State the amount of the contributions which he had heretofore received before being entitled to retirement pay under the provisions of this Act. Any Judge who is removed from office by impeachment, or is otherwise removed for official misconduct, shall be ineligible to draw retirement pay under the provisions of this Act.

#### **Ineligibility to practice law; assignment to judicial duty**

Sec. 7. Judges retired under the provisions of this Act shall be judicial officers of the State, and during the time they are receiving retirement pay shall not be allowed to appear and plead as attorneys at law in any Court of record in this State, and shall, with their own consent, be subject to assignment by the Chief Justice of the Supreme Court to sit in any Court of this State of the same dignity, or lesser, as that from which they retired, and if in a District Court, under the same rules as provided by the present Administrative Judicial Act<sup>1</sup>, and while so assigned, shall have all the powers of Judges thereof. While assigned to said Court such Judges shall be paid an amount equal to the salary of Judges of said Court, in lieu of retirement allowance.

<sup>1</sup> Article 200a.

#### **Administration by Chief Justice of Supreme Court; assistant**

Sec. 8. The Chief Justice of the Supreme Court shall be in charge of administering this Act and shall promulgate such rules and provide such forms as he may deem necessary in order to comply with the provisions of this Act. He shall make determinations of disability under Section 3 of this Act. No retirement payment shall be made until the Chief Justice of the Supreme Court has certified to the Comptroller that a Judge is entitled to such payments. In order to carry out the provisions of this Act, the Chief Justice is authorized to employ an assistant, whose salary will be set by the Legislature, and paid for from moneys appropriated for the Judiciary Department.



**Partial invalidity**

Sec. 10. If any section, subsection, or clause of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of any of the remaining portions of this Act, and it is hereby declared that this Act would nevertheless have been passed without such section, subsection or clause so declared unconstitutional. Acts 1949, 51st Leg., p. 181, ch. 99.

Section 9 of the act of 1949 repeals all conflicting laws and parts of laws.

**Art. 6228c. Employees Retirement System and Teachers Retirement System; credit for prior service creditable under other system****Credit for prior service creditable under either act**

Section 1. Effective September 1, 1949, any person who is a member of either the Teacher Retirement System of Texas under the provisions of Chapter 470, Acts, Regular Session, 45th Legislature, (1937), as amended <sup>1</sup>, or the Employees Retirement System of Texas under the provisions of Chapter 352, Acts, Regular Session, 50th Legislature, (1947), as amended <sup>2</sup>, and if such person had also been a member of said System for a period of two (2) years prior to September 1, 1949, and/or if any person became a member of either System after September 1, 1947, but before September 1, 1949, and continued in such employment for a period of five (5) consecutive years, then such member shall be entitled to receive credit and resulting benefits for any and all prior service creditable as prior service for employment under the provisions of either of said Acts and the respective Boards of Trustees are hereby instructed to review the prior service of the employees who were members on September 1, 1949, under either Act to permit said members to claim such additional prior service as provided herein and to include same in the prior service certificates to be issued; or if a prior service certificate has been issued, to adjust and effect an amended prior service certificate after such additional prior service claimed has been properly verified as provided in the provisions of the two Retirement Acts.

<sup>1</sup> Article 2922—1.

<sup>2</sup> Article 6228a.

**Termination of employment and return to employment  
requiring membership in other system**

Sec. 2. In the event a member of one of said Retirement Systems shall terminate his employment and within five (5) years return to employment in a position requiring his membership in the other Retirement System, such member shall be entitled to retain his prior service and accumulated membership service credited to him under the first System and the total accumulated creditable service will be eligible for joint retirement under both Systems as provided herein. Provided, however, this shall not apply to any teacher or State employee who has withdrawn his accumulated contributions in either system.

**Waiver of benefits; withdrawal of contributions**

Sec. 3. It is specifically provided, however, that no prior service as provided herein shall be granted by either System where said person has previously signed a waiver of all benefits under either System as provided in said Retirement System Acts; and provided further, that no prior service, and/or membership service shall be granted or made eligible for joint creditable service where such person voluntarily withdrew his contributions under either Retirement System because of termination of employ-

ment with the State and thereby cancelled his total accumulated service with such System as provided in each of the two Retirement System Acts.

#### Retirement with joint creditable service

Sec. 4. Any person who has accumulated creditable service between both Systems as provided herein may retire with joint creditable service between the two Systems after completing:

a. Twenty (20) years of joint creditable service in Texas and upon attaining the age of sixty (60) years;

b. Twenty-five (25) years of joint creditable service in Texas, although not in service at the time the age of sixty (60) years is attained, but only when the member shall have attained the age of sixty (60) years and only in instances where the member has not withdrawn his contributions from either System;

c. Thirty (30) years of joint creditable service regardless of the age attained.

#### Rules and regulations; transfers of funds

Sec. 5. The Board of Trustees of each of the Retirement Systems shall jointly establish rules and regulations to carry out the provisions of this Act; and the Comptroller is authorized, upon request by one System desiring to make its funds available through the other System, to transfer accrued funds and interest from one System to the other for eventual disbursement to the member concerned so as to effectuate the purposes of this Act.

#### Repeals; cumulative to certain laws

Sec. 6. All laws or parts of laws in conflict herewith are amended insofar as a conflict exists with the provisions of this Act; and provided further, that the provisions of this Act shall be cumulative to the provisions of Chapter 470, Acts, Regular Session, 45th Legislature, as amended<sup>1</sup>, and Chapter 352, Acts, Regular Session, 50th Legislature, as amended<sup>2</sup>.

<sup>1</sup> Article 2922—1.

<sup>2</sup> Article 6228a.

#### Partial invalidity

Sec. 7. If any part of this Act is declared to be invalid or unconstitutional, the remainder of this Act shall not thereby be invalidated. Acts 1949, 51st Leg., p. 835, ch. 454.

#### Historical Note

Acts 1949, 51st Leg., p. 835, ch. 454 contained the following preamble:

"Whereas, The Teacher Retirement System of Texas under the provisions of Chapter 470, Acts, Regular Session, 45th Legislature, as amended, and the Employees Retirement System of Texas under the provisions of Chapter 352, Acts, Regular Session, 50th Legislature, as amended, provide retirement benefits for all members who are State employees and pay retirement annuities based upon prior and membership service creditable under the terms of said Acts but only for service accumulated in one System without regard to any service accumulated in the other System; and

"Whereas, As a matter of fact, whether such service is creditable under one of said Acts or the other, same was in any event performed in the public service and

for the welfare and benefit of the State because any service creditable under the Employees Retirement System Act has or will contribute either directly or indirectly to the instruction offered by and in State supported colleges or institutions or agencies of this State, and vice versa, and inasmuch as State employees in said colleges, institutions, schools, or agencies who have service creditable under the Teacher Retirement Act have contributed directly to the benefit of the State; and

"Whereas, Under said Acts no provision is made for the crediting and allowing of resulting benefits to a person who is a member of the Teacher Retirement System for prior service that would be otherwise creditable under the Employees Retirement System Act, and vice versa, to a person who is a member of the Employees Retirement System for prior service as a State

employee that would be otherwise creditable under the Teacher Retirement System Act, and further that when a member of one of the Retirement Systems changes his position of employment with the State to a position of employment with the State covered by the other System, such employee thereby loses all benefits gained and/or service creditable for retirement purposes under the first employment, although as a matter of fact, both positions are one employment by the State of Texas. This results in working an unfair hardship

on such employee and a detriment to the efficient and proper administration of the State's business. Consequently, this situation necessitates the passage of this Act making all prior service as a State employee creditable under one of these Systems to be also creditable under the other, in order that a person employed by the State will not be denied by reason of his employment or change of his employment the right to retirement benefits based upon total State service."

#### Art. 6228d. Death before retirement under county retirement systems

Section 1. Any member of a retirement, disability and death compensation fund established by any county of this State pursuant to Section 62 of Article XVI of the Constitution of Texas, by written designation filed in such form and with such officer or employee as the Commissioners Court shall prescribe, may provide that the contributions made by such member to such fund, together with interest (if any) assigned to such contributions under such plan, shall be paid, in the event of the death of such member before retirement with an allowance of benefits from said fund, to such beneficiary as may be named by him in such written designation. The member may change the beneficiary so designated, or revoke a designation previously made, by filing with the Commissioners Court, or such officer or employee as may be designated by such Court, a notice in writing in such form as the Court may prescribe, of such change or revocation.

In the event the member dies before such retirement, without so designating a beneficiary to receive his accumulated contributions and interest if any, or in the event the beneficiary so designated predeceases the member, such sums shall be paid to his estate. Payment of the accumulated contributions and interest of a member to the executor or administrator of his estate, or to his designated beneficiary, shall discharge the fund and its administrative officers from any other or further liability therefor.

Sec. 2. The provisions of this Act shall apply only to such retirement, disability and death compensation funds as have been established prior to the date of enactment of this Act. Acts 1949, 51st Leg., p. 1174, ch. 588.

## 2. CITY PENSIONS

#### Art. 6243b. Firemen and policemen pension fund in cities of over 100,000.

##### Saving clause

Sec. 17. The laws and parts of laws including city ordinances in conflict herein are hereby repealed to the extent of such conflict only and except as to such conflict shall be in full force and effect, and this Act shall in nowise change, amend or repeal any part of any Fireman's and Policeman's Pension Law other than such law as is provided in House Bill 122, Acts of the First Called Session of the Forty-fourth Legislature.<sup>1</sup>

If any provision, section or subsection of this Act is declared unconstitutional by a Court of competent jurisdiction it shall not invalidate the remaining sections and subsections of this Act. Acts 1933, 43rd Leg., 1st C.S., p. 4, ch. 4; Acts 1935, 44th Leg., 1st C.S., p. 1565, ch. 387, § 1; Acts 1936, 44th Leg., 3rd C.S., p. 2109, ch. 510, § 6.

<sup>1</sup> Acts 1935, 44th Leg., 1st C.S., p. 1565, ch. 387, amending this article.

**Art. 6243e. Firemen's Relief Pension Fund**

Sec. 6. 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 one or more regularly organized Fire Departments in any city or town in this State now within or that may come within the provisions 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 (\$100.00) Dollars 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 (\$50.00) Dollars 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 (\$25.00) Dollars. 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. As amended Acts 1949, 51st Leg., p. 675, ch. 348, § 1.

**Art. 6243e—1. Repealed. Acts 1949, 51st Leg., p. 371, ch. 195, § 1.  
Effective May 14, 1949**

Section 1-a of the repealing act, reads as follows: "The repeal of this Act shall in nowise affect the rights of any person who has heretofore been pensioned thereunder, but any such person shall be en-

titled to continue to receive the same amount of pension from the pension system succeeding to and acting in place of the system created by the Act hereby repealed."

**Art. 6243h. Texas Municipal Retirement System****Creation of Fund**

Section I. A retirement and disability pension system is hereby created, to be operated under the management of a Board of Trustees of the Texas Municipal Retirement System, to be maintained and administered in accordance with the provisions of this Act, to provide for the payment of annuities and other benefits to employees and to beneficiaries of employees of participating municipalities in this State pursuant to Section 51-f, Article 3, of the Constitution of the State of Texas.

The pension system so created shall have all the power and privileges of a corporation and shall be known as the "Texas Municipal Retirement System," and by such name all of its business shall be transacted, all of its funds invested and all of its cash and securities and other property held.

**Definitions**

Sec. II. The following words and phrases as used herein, unless different meanings are plainly indicated by their context, shall have the following meanings, respectively:

1. "Accumulated Deposits" means the sums of all deposits received from a member then credited to the account of such member, together with interest thereon at the effective rate for the respective years.

2. "Actuarial Tables" means such experience, probability and other tables as are adopted by the Board as necessary to administration of this Act.

3. "Annuitant" means a person receiving an annuity from this System.

4. "Annuity" means a series of equal monthly payments payable at the end of each calendar month during the life of the annuitant. The first payment shall be due at the end of the first calendar month following the date of approval of the application for retirement by the Board. No payment shall be made for any fraction of a month elapsing at the time of death.

5. "Beneficiary" means the person or persons designated as such by the member or annuitant in the last written designation on file with the Board, or if no person so designated survives, or if no designation is on file, the estate of the member or annuitant.

6. "Board" means the Board of Trustees of the Texas Municipal Retirement System created by this Act.

7. "Deposits" means the amounts required to be paid to this System by a member.

8. "Current Service Annuity" means the annuity, actuarially determined, derived from reserve funds arising from a member's deposits and an equal amount of reserve funds arising from a municipality's normal contributions.

9. "Current Service" means service as an "employee" rendered while a member of the System.

10. "Department" means any recognized division comprising one of the functions of operation of a municipality, e. g., utility, public health, police, fire, office, public works, etc.

11. "Director" means the Executive Secretary appointed by the Board to manage and administer this System under the supervision and direction of the Board.

12. "Earnings" means an amount equal to the sum of the payments made to an employee for performance of personal services as certified on a written pay roll of the employing department, plus the money value as determined by the Board of any meals, lodging, fuel or other allowances provided for such employee in lieu of money; provided that no earnings in excess of Three Thousand, Six Hundred Dollars (\$3,600) in any one year will be included within the meaning of the word.

13. "Rate of Earnings" means the actual rate upon which the earnings of an employee are calculated at the time, as certified by the employing municipality, converted into earnings for any period on the assumption that, unless specifically provided otherwise, the following are equivalents: two thousand, four hundred (2,400) hours, three hundred (300) days, fifty-two (52) weeks, twelve (12) months, one (1) year.

14. "Employee" means any person who receives compensation from and is certified by a municipality as being a regular full-time employee or as a regular part-time employee employed in a position normally requiring actual performance of duty during not less than one thousand (1,000) hours a year; provided, however, that:

The definition of employee shall not include persons:

(a) who are eligible to be included within the Teachers' Retirement Act, pursuant to Acts, 1937, Forty-fifth Legislature, Page 1178, Chapter 470, as amended;<sup>1</sup>

(b) who are or may be included within any public pension fund or retirement system operated at public expense now or hereafter operating in this State until and unless such pension fund has consolidated with this fund as hereafter provided;

(c) who are elected to office by vote of the people, it being further specifically provided, however, that voluntary firemen and elected officials who meet the definition of employee in some capacity other than as a voluntary fireman or elected official shall be considered as an "employee" for the purposes of this Act to the extent of such other capacity.

15. "Average Prior Service Compensation" shall mean the average monthly earnings for service rendered to a participating municipality by an employee of a participating department of such municipality during the thirty-six (36) months immediately preceding the effective date of participation of such department or if there be less than thirty-six (36) months of such service, the average shall be computed for the number of months of such service in such thirty-six (36) month period.

16. "Municipality" means any incorporated city or town now existing or hereafter created within the State; and, for the purpose of including its employees within the provisions of the fund, the Texas Municipal Retirement System and the League of Texas Municipalities.

17. "Retirement System" means the Texas Municipal Retirement System hereby created.

<sup>1</sup> Article 2922—1.

18. "Participating Department" means any department included within the provisions of this System in accordance with this Act.

19. "Participating Municipality" means any municipality included within the provisions of this System in accordance with this Act.

20. "Member" means any employee included in the membership of the System as provided in this Act.

21. "Regular Interest" means interest at the rate of two and one-half percentum (2½%) per annum compounded annually.

22. "Service" means service as an employee as defined in Subsection (14) of this Section.

(a) "Prior Service" means service rendered to a participating municipality by an employee of a participating department of such municipality prior to the effective date of participation of such department.

(b) "Creditable Service" means "Prior Service" plus "Current Service" for which credit is allowable as provided in Section VI of this Act.

23. "Prior Service Annuity" means the annuity, actuarially determined, which can be provided from the "Accumulated Prior Service Credit" of a member at retirement.

24. "Current Interest" shall mean interest at a rate percentum per annum ascertained each year by dividing (1) the amount in the Interest Fund on December 31 of such year before the transfer of interest to other funds, less an amount equal to two and one-half percentum (2½%) of the sum of the mean amount in the Current Service Annuity Reserve Fund during such year and the mean amount in the Municipality Prior Service Accumulation Fund during such year and the mean amount in the Prior Service Annuity Reserve Fund during such year by (2) an amount equal to the amount in the Municipality Current Service Accumulation Fund at the beginning of such year plus the amount in the Endowment Fund at the beginning of such year and plus the sum of the accumulated deposits in the Employees Saving Fund at the beginning of

such year to the credit of all members included in the membership of the Retirement System on December 31 of such year before any transfers for retirements effective December 31 of such year are made, it being provided that the above division shall be carried to only three (3) decimal places and shall never be taken as greater than two and one-half per centum (2½%).

25. "Service Retirement Allowance" shall mean a current service annuity and a prior service annuity, or any optional benefit payable in lieu thereof.

26. "Disability Retirement Allowance" shall mean a current service annuity and a prior service annuity.

27. "Retirement" shall mean withdrawal from service with a retirement allowance granted under the provisions of this Act.

28. "Service Retirement" means the retirement of a member from service with a service retirement allowance as provided in Section VII of this Act.

29. "Disability Retirement" means the retirement of a member from service with a disability retirement allowance as provided in Section VII of this Act.

30. "Annuity Reserve" shall mean the present value computed upon the basis of such annuity or mortality tables as shall be adopted by the Board with regular interest, of all payments to be made on account of the annuity or benefit in lieu thereof, granted to a member under the provisions of this Act.

31. "Actuarial Equivalent" shall mean a benefit of equal value when computed upon the basis of such annuity or mortality table as shall be adopted by the Board and regular interest.

#### Participation

##### Sec. III. 1. Participation of Municipalities and Departments

(a) Each municipality electing to have one or more of its departments participate in this System shall be included within and subject to the provisions of this System. Election to have any department or departments participate shall be by vote of the governing body of the municipality in accordance with the usual procedure prescribed for other official actions of the municipality. The governing body of any municipality so electing shall notify the Board of such action within ten (10) days thereafter designating the names of the department or departments to be included. Participation of any department shall begin as of the first day of the second month immediately following receipt of notice of election to participate.

(b) The Board is hereby authorized to make and enforce rules with reference to the time of beginning operations and of participation and to notice, information and reports required of municipalities electing to participate in this System.

(c) A municipality which once elects to participate in the System may refuse to add new departments or new employees but shall never discontinue as to any members.

(d) Upon petition of qualified electors thereof equal to ten per centum (10%) of the total number of votes cast at the last regular municipal election, the governing body of any municipality shall order an election to be held not more than sixty (60) days after the filing of such petition to determine whether such municipality or such department or departments thereof named in the petition shall participate and the governing body shall immediately arrange for the participation of such municipality or department or departments if a majority of the votes cast at such election be in favor of such participation.

## 2. Participation of Employees

The membership of the Retirement System shall be composed as follows:

(a) All persons who are employees of a participating department on the effective date of the participation of such department shall become members of the Retirement System as of that date. This, however, shall not apply to any person who on the effective date hereof has a contract of employment with a municipality which would be violated by the requirement of participation as herein specified, unless such person elects to become a member, but each such person who shall have had deposits to this System deducted or who shall have been notified of the creation of this System shall be deemed to have elected to become a member unless such person files with the Board prior to the effective date of participation a written notice of election not to become a member. Any person so electing not to become a member shall forever thereafter be precluded from becoming a member of this System.

(b) Any person not a member of this System, who becomes an employee for the first time of a participating department of a municipality after the effective date of participation, of such department shall become a member of the System upon the date such person becomes an employee, provided he is then under the age of fifty (50) years but any such person who is fifty (50) years or over on such date of employment shall not be eligible to become a member of this System.

(c) Any person, not a member of this System, who has been an employee of a participating municipality prior to the effective date of participation of such municipality but who is not an employee of such participating municipality on the effective date of participation of such municipality shall, if he again becomes an employee of a participating department of such municipality after the effective date of participation of such department, become a member of the System upon the date he again becomes an employee, provided he is then under the age of fifty (50) years or provided the extent of his prior service to such municipality is equal to or in excess of the period by which his then attained age exceeds the age of fifty (50) years, and otherwise such person shall not be eligible to become a member of this System.

(d) Any person who has been a member of this System and whose membership has terminated by withdrawal, shall, if he again becomes an employee of a participating department of a municipality, become a member of the System upon the date such person again becomes an employee if he is then under the age of fifty (50) years but any such person who is fifty (50) years or over on such date of re-employment shall not be eligible to become a member of the System.

(e) Membership in the Retirement System shall cease and terminate if:

(1) A member is absent from service in a participating department of a municipality more than sixty (60) consecutive months, or

(2) A member's service in a participating department of a municipality is discontinued and the member withdraws his accumulated deposits, or

(3) A member dies, or

(4) A member becomes an annuitant, provided, however, that during the time the United States is in a state of war and for a period of twelve (12) months thereafter, time spent by a member of the System (1) on active duty in the Armed Forces of the United States and their auxiliaries and/or in the Armed Forces Reserve of the United States and their auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereinto;



or (2) in war work as a direct result of having been drafted or conscripted by governmental action into said war work, shall not be construed as absent from service in so far as the provisions of this Act are concerned but shall count toward membership service.

#### Revenue

Sec. IV. 1. Each member shall make deposits to the System of five percentum (5%) of each payment of earnings made by him by a participating department, provided that such deposit for any one month's earnings shall not exceed Fifteen Dollars (\$15).

Each participating municipality shall cause to be deducted on each and every payroll of a member subsequent to the effective date of becoming a participating municipality or participating department the deposits payable by the member as provided in this Act.

The treasurer or proper disbursing officer of each participating municipality shall make deductions from salaries of members as provided in this Act, and shall transmit monthly, or at such time as the Board shall designate, a certified copy of the payroll, and the amount specified to be deducted shall be paid to the Board at its home office in cash and, after making a record of all receipts, the said Board shall deposit such receipts to the credit of the Employees Saving Fund, and such Funds shall be deemed as appropriated for use according to the provisions of this Act.

For the purpose of enabling the collection of members' deposits to be made as simple as possible, the City Clerk or City Secretary of each participating municipality shall within thirty (30) days after the beginning of each year, make up a list of all employees in its employ, who are members, set out their salaries by the month, and by the year, make a certificate to the correctness of this statement, and file the same with the Director. If additions to or deductions from this list should be made during the year, such additions or deductions shall likewise be certified.

The records of the Board shall be open to public inspection and any member shall be furnished with a statement of the amount to the credit of his individual account upon written request, provided that the Board shall not be required to answer more than one such request of a member in any one year.

Each member shall pay with the first payment to the Employees Saving Fund each year, and in addition thereto, a sum of One Dollar (\$1), which amount shall be credited to the Expense Fund, said payments for the Expense Fund to be made to the Board in the same way as payments to the Employees Saving Fund are to be made as provided in this Act; provided, however, that if said payment for the Expense Fund is not made by a member with said first payment in any year, the Board may deduct the One Dollar (\$1) payment for the Expense Fund from such first payment.

2. Each participating municipality shall make normal contributions to the System of a percentage of each payment of earnings made to each member by such municipality as hereinafter provided and shall make Prior Service Contributions to this System of a percentage of each payment of earnings made to each member by such municipality as hereinafter provided, subject, however, to the limitation that the total of such percentages shall not exceed seven and one-half per cent (7½%). The above percentages for each participating municipality shall be determined annually by the Board from the most recent data available at the time of such determination, and shall be certified to each participating municipality prior to the beginning of each calendar year.

Each participating municipality shall make payment of normal contributions to the Municipality Current Service Accumulation Fund of the

System each month of an amount equal to the per cent of the earnings during such month of the members of the System employed by such participating municipality which per cent shall be calculated annually by the actuary and approved by the Board as being the necessary and required per cent: (a) to maintain a reserve in such municipality's account in the Municipality Current Service Accumulation Fund equal to the present and prospective liabilities of such municipality's account in the Municipality Current Service Accumulation Fund, and (b) to amortize over a period of five (5) years the amount by which the present and prospective liabilities of such municipality's account in the Municipality Current Service Accumulation Fund was greater or less than the amount in such account on January 1 of the year preceding the then current year. "Present and prospective liabilities" as used herein shall mean, at any time, an amount equal to that amount in the Employees Saving Fund standing to the credit of a participating municipality's members at that time which will eventually be transferred to the Current Service Annuity Reserve Fund, according to calculations made by the actuary and approved by the Board on the basis of mortality and other tables adopted by the Board.

Each participating municipality shall make payment of Prior Service Contributions to the Municipality Prior Service Accumulation Fund of the System each month of an amount equal to a per cent of the earnings during such month of the members of the System employed by such participating municipality which per cent shall be calculated annually by the actuary and approved by the Board as being the necessary and required per cent, on the basis of regular interest, (a) to accumulate in such municipality's account in the Prior Service Accumulation Fund by or before the end of the twenty-fifth year of participation of such participating municipality, a sum equal to the reserve required, according to calculations made by the actuary and approved by the Board, on the basis of mortality and other tables adopted by the Board at the end of such period, to meet all payments in full due after the end of such period under prior service annuities arising from prior service credits granted by such participating municipality then in effect or to become effective thereafter, and (b) to provide the amount required according to this Act to be paid during such period under prior service annuities arising from prior service credits granted by such participating municipality. If the per cent of earnings calculated as above for Prior Service Contributions when added to the per cent of earnings calculated according to the preceding paragraph for Normal Contributions exceeds seven and one-half per cent (7½%), the per cent of earnings for Prior Service Contributions shall be reduced to a per cent which together with the per cent for Normal Contributions will equal seven and one-half per cent (7½%).

If the per cent of earnings calculated as above for Prior Service Contributions when added to the per cent of earnings calculated according to the preceding paragraph for Normal Contributions is less than five per cent (5%), the per cent of earnings for Prior Service Contributions shall be increased to a per cent which together with the per cent for Normal Contributions will equal five per cent (5%) until such time as the participating municipality has completed the amortization of prior service annuity liability as herein provided for.

Each participating municipality shall make payment of expense contributions to the System each month at a rate per member of the System employed by such participating municipality as is set by the Board and certified to all participating municipalities prior to the beginning of each calendar year as being the necessary rate required to provide the excess, if any, of the estimated total administrative expense for the year

above the anticipated revenue of the Expense Fund from other sources during the year adjusted for any surplus or deficiency existing at the beginning of the year, provided, however, that such rate shall never exceed fifty cents (50¢) per month per member.

On or before the fifteenth day of each month, each participating municipality shall remit or cause to be paid to the System at its office the amounts of the normal contributions, Prior Service Contributions and Expense Contributions due for the preceding month as herein provided.

Unless otherwise provided for and paid by a municipality all contributions of the municipality shall be paid out of the fund from which earnings are paid to the members or out of the General Fund of the municipality.

#### Method of Financing

Sec. V. All of the assets of the System shall be credited according to the purpose for which they are held to one (1) of eight (8) funds, namely, the Employees Saving Fund, the Municipality Current Service Accumulation Fund, the Municipality Prior Service Accumulation Fund, the Current Service Annuity Reserve Fund, the Prior Service Annuity Reserve Fund, the Interest Fund, the Endowment Fund and the Expense Fund.

##### 1. The Employees Saving Fund:

The Employees Saving Fund shall be a Fund in which shall be accumulated the deposits from the compensation of members plus current interest earnings. Contributions to and payments from the Employees Saving Fund shall be made as follows:

(a) Each participating municipality shall cause to be deducted from the salary of each member, on each and every payroll of such employer for each and every payroll period, a sum of money equal to five per centum (5%), of his earnings. In determining the amount earnable by a member in a payroll period, the Board may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from earnings for any period less than a full payroll period, if employee was not a member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth ( $\frac{1}{10}$ ) of one per centum (1%) of the annual compensation upon the basis of which such deduction is to be made.

(b) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation and payment of salary or compensation, less said deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this Act. The employer shall certify to the Board on each and every payroll, or in such other manner as said Board may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into said Employees Saving Fund, and shall be credited to the individual account of the member from whose compensation said deduction was made.

(c) During the time that the United States is in a state of war and for twelve (12) months thereafter, a member of the System (1) in the Armed Forces of the United States or their auxiliaries or in the Armed Forces Reserve of the United States and their auxiliaries or in the service of the American Red Cross, as a result of having volunteered or having been drafted or conscripted thereinto, or (2) in war work as a direct

result of having been drafted or conscripted by governmental action into said war work, shall be permitted to deposit each year to the System a sum not to exceed the amount deposited by him to said System during the last year that he was employed as an employee under the provisions of this Act. The sum so deposited by such member and received by the System shall be deposited by said System in the Employees Saving Fund to the credit of the member's individual account and shall be treated in the same manner as funds deposited by the member while he was last employed as under the provisions of this Act.

(d) Current interest on member's deposits shall be credited annually as of the thirty-first day of December and shall be allowed on the amount of the accumulated deposits standing to the credit of the member at the beginning of the year and shall not be allowed for parts of a year.

(e) Should a member cease to be an employee of a participating department of a municipality except by death or retirement under the provisions of this Act, upon the filing of formal application therefor, such member's accumulated deposits shall be paid to him and his account in the Employees Saving Fund closed.

Following the automatic termination of membership in the System for those members who have been absent from service in some participating department more than sixty (60) consecutive months, the Employees Saving Fund account of such members shall cease to draw interest.

(f) Should a member die before retirement the amount of his accumulated deposits shall be paid as provided in Section VII of this Act.

(g) Upon the retirement of a member his accumulated deposits shall be transferred from the Employees Saving Fund to the Current Service Annuity Reserve Fund.

## 2. Municipality Current Service Accumulation Fund:

The Municipality Current Service Accumulation Fund shall be the Fund in which shall be accumulated all normal contributions made to the Texas Municipal Retirement System by the participating municipalities for the purpose of providing upon the retirement of each member an amount equal to such member's accumulated deposits and from which shall be transferred to the Current Service Annuity Reserve Fund, at the retirement of a member, an amount equal to the accumulated deposits of the member.

Contributions to and payments from this Fund shall be made as follows:

(a) All normal contributions payable by participating municipalities shall be paid into the Municipality Current Service Accumulation Fund and shall be credited to the accounts of the respective participating municipalities in such Fund.

(b) Upon the retirement of a member, an amount equal to his accumulated deposits in the Employees Saving Fund shall be transferred from the Municipality Current Service Accumulation Fund into the Current Service Annuity Reserve Fund. If the accumulated deposits of such retiring members have accumulated from deposits made while an employee of a single participating municipality, such municipality's account in the Municipality Current Service Accumulation Fund shall be reduced by the amount so transferred. If such accumulated deposits arose from service in more than one participating municipality, the accounts of the involved participating municipalities in the Municipality Current Service Accumulation Fund shall be reduced by the respective amounts chargeable to such participating municipalities.

## 3. Municipality Prior Service Accumulation Fund:

The Municipality Prior Service Accumulation Fund shall be the Fund in which shall be accumulated all prior service contributions made to the

Retirement System by the participating municipalities for the purpose of providing the amounts required for payment of prior service annuities; and from which prior service annuities shall be paid to the extent herein provided.

Contributions to and payments from this Fund shall be made as follows:

(a) All prior service contributions payable by participating municipalities shall be paid into the Municipality Prior Service Accumulation Fund and shall be credited to the accounts of the respective participating municipalities in such Fund.

(b) All payments under prior service annuities arising from prior service credits granted by a participating municipality shall be paid from this Fund and charged to such participating municipality's account in this Fund subject to the following: The Board shall have the power to reduce proportionately all payments under prior service annuities arising from prior service credits granted by any participating municipality, at any time and for such period of time as is necessary so that the payments under such prior service annuities in any year shall not exceed the amounts available in such participating municipality's account in the Municipality Prior Service Accumulation Fund for payment of prior service annuities in such year.

(c) Whenever, at the end of any year, the amount accumulated in any municipality's account in the Municipality Prior Service Accumulation Fund shall equal or exceed the reserve required, as of the end of such year, according to calculations made by the actuary and approved by the Board on the basis of mortality and other tables adopted by the Board, to meet all future payments in full under prior service annuities, arising from prior service credits granted by such participating municipality, then in effect or to become effective thereafter, then,

(1) the amount of the reserve required at the end of such year under such prior service annuities as are then in effect shall be transferred from the Municipality Prior Service Accumulation Fund to the Prior Service Annuity Reserve Fund and such municipality's account in the Municipality Prior Service Accumulation Fund shall be reduced by such amount so transferred; and

(2) future payments under such prior service annuities so transferred shall thereafter be paid by the System from the Prior Service Annuity Reserve Fund; and

(3) the payment of prior service contributions to the System by such participating municipality shall be discontinued.

Thereafter, upon retirement of a member with prior service credits granted by such participating municipality the amount of the reserve required as of the effective date of such retirement to meet all future payments in full under such member's prior service annuity shall be transferred from the Municipality Prior Service Accumulation Fund to the Prior Service Annuity Reserve Fund and such municipality's account in the Municipality Prior Service Accumulation Fund shall be reduced by such amount so transferred.

Thereafter, should it be determined, according to calculations made by the actuary and approved by the Board on the basis of mortality and other tables adopted by the Board, that the amount to the credit of such participating municipality's account in the Municipality Prior Service Accumulation Fund at the end of any year is less than the reserve required as of the end of such year to meet all future payments in full under prior service annuities, arising from prior service credits granted by such participating municipality, to become effective after the end of such year, such municipality shall resume payment of Prior Service Con-

tributions, subject to the limitations of Section IV of this Act, of such percentage as is required to amortize such deficiency over a period of one (1) year.

Whenever all prior service annuities, arising from prior service credits granted by a participating municipality have become effective and the reserves therefor transferred to the Prior Service Annuity Reserve Fund as provided above, any then remaining balance to the credit of such municipality's account in the Municipality Prior Service Accumulation Fund shall be paid to such municipality and such municipality's account in the Municipality Prior Service Accumulation Fund closed.

#### 4. Current Service Annuity Reserve Fund:

The Current Service Annuity Reserve Fund shall be the Fund in which shall be held all reserves for current service annuities granted and in force and from which shall be paid all current service annuities and all benefits in lieu of current service annuities, payable as provided in this Act. This Fund shall be made up of transfers as follows:

(a) At the time of service or disability retirement, the accumulated deposits of a retiring member shall be transferred from the Employees Saving Fund to the Current Service Annuity Reserve Fund as reserves for the current service annuity purchased by said member's deposits.

(b) An amount equal to the accumulated deposits of each retiring member shall be transferred, upon such member's retirement, from the Municipality Current Service Accumulation Fund as reserves for an additional current service annuity equal to the current service annuity purchased by such member's deposits.

Transfers and payments from the Current Service Annuity Reserve Fund shall be made as provided in Section VII of this Act, upon the death, restoration to active service or removal from the disability list, of an annuitant retired on account of disability.

#### 5. Prior Service Annuity Reserve Fund:

The Prior Service Annuity Reserve Fund shall be the Fund in which shall be accumulated all transfers from the Municipality Prior Service Accumulation Fund as herein provided. All prior service annuity payments under prior service annuities, the reserves for which have been transferred to this Fund, shall be paid from this Fund. The Board shall have the power to reduce proportionately all payments for prior service annuities payable from this Fund at any time and for such period of time as is necessary so that payments under such prior service annuities in any year shall not exceed the available assets in the Fund in such year.

Transfers from this Fund shall be made as provided in Section VII of this Act, upon the restoration to active service of an annuitant retired on account of disability.

#### 6. Interest Fund:

The Interest Fund is hereby created to facilitate the crediting of interest to the various other Funds. All income, interest and dividends derived from the deposits and investments authorized by this Act shall be paid into the Interest Fund. Once each year on the thirty-first day of December, interest shall be allowed and transferred to the other Funds, respectively. The Board shall annually transfer to the credit of the interest reserve account of the Endowment Fund all excess earnings after interest-bearing Funds have been duly credited with interest for the year in the manner provided in this Act.

#### 7. Endowment Fund:

The Endowment Fund shall be a Fund in which shall be accumulated gifts, awards, funds and assets accruing to the municipal system not specifically required by other Funds created by this Act, and to provide a

contingent fund out of which special requirements of other Funds may be covered. The principal of this Fund is hereby held and dedicated as a perpetual endowment of the System. All current interest credited to this Fund and excess interest earnings transferred to this Fund shall be held as an interest reserve account from which the Board shall transfer annually to the Expense Fund such amount as is required over and above the One Dollar (\$1) per member expense contribution to provide for the administration and maintenance of the municipal system, provided the funds are available.

**8. Expense Fund:**

The Expense Fund shall be the Fund from which the expenses of administration and maintenance of the System shall be paid. Transfers to and payments from this Fund shall be made as follows:

(a) The Director shall prepare annually an itemized budget showing the amount required to defray the expenses for the ensuing fiscal year and shall submit the report to the Board for its review, amendment and adoption.

(b) Each member shall pay with the first payment to the Employees Saving Fund each year, and in addition thereto, a sum of One Dollar (\$1), which amount shall be credited to the Expense Fund, said payments for the Expense Fund shall be made to the Board in the same way as payments to the Employees Saving Fund shall be made, as provided for in this Act; provided, however, that if said payment for the Expense Fund by any member is not made with said first payment of said member, the Board may deduct the amount of the payment for the Expense Fund from said first payment of said member.

(c) If the amount estimated to be required to meet the expenses of the System is in excess of One Dollar (\$1) per member for the year, the amount of such excess shall be paid from the interest reserve account of the Endowment Fund to the extent available. The Board, as evidenced by a resolution of the Board recorded in its minutes, may transfer to the Expense Fund such excess amount not exceeding the entire amount required to cover the expenses as estimated for the year.

(d) If the amount estimated to be required to meet expenses of the Board is in excess of One Dollar (\$1) per member for the year and if there is an insufficient amount in the interest reserve account of the Endowment Fund to pay such excess, the Board, as evidenced by a resolution of that Board recorded in its minutes, shall assess the estimated additional amount against the participating municipalities in proportion to the number of members as provided in Section IV of this Act.

**Creditable Service**

Sec. VI. 1. Under such rules and regulations as the Board shall adopt, each person who is an employee of a participating department of a participating municipality on the effective date of participation of such department and who becomes a member on such effective date shall be entitled to receive credit for "prior service" as defined in this Act. Any person who has been an employee of such a participating municipality prior to the effective date of participation of such municipality, but who is not in the service of such municipality on the effective date of such municipality's participation, shall be entitled to receive credit for "prior service" as defined in this Act, if he again becomes an employee of such participating municipality within five (5) years after the effective date of such municipality's participation and becomes a member as of the date of such re-employment and continues as an employee of a participating department of such municipality for a period of five (5) consecutive years.

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

2. Each member entitled to receive credit for "prior service" shall file a detailed statement of all prior service for which he claims credit with the City Clerk or City Secretary of the municipality to which such service was rendered.

3. Subject to the above provisions and to such other rules and regulations as the Board may adopt, each participating municipality shall verify, as soon as practicable after the filing of such statements of service, the service therein claimed, and shall certify to the Board the length of "prior service" for which credit is allowed to each employee-member and the "average prior service compensation" of each such employee-member.

4. Upon receipt of such certification from the participating municipalities the Board shall issue prior service certificates certifying to each member the length of "prior service" with which he is credited, his "average prior service compensation" and his "prior service credit" as herein defined. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided, however, that any member or participating municipality may, within one (1) year from the date of issuance or modification of such certificate, request the Board to modify or correct such prior service certificate.

When membership ceases, such prior service certificate shall become void. Should a person whose membership has terminated again become a member, he shall enter the System as a member not entitled to credit for prior service.

5. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the current service rendered by him since he last became a member, and, also, if he has a prior service certificate which is in full force and effect, the length of the service credited on his prior service certificate.

6. "Prior Service Credit" shall mean an amount equivalent to the accumulation at interest of a series of equal monthly payments of ten per cent (10%) of a member's "average prior service compensation" for the number of months of prior service certified to in such member's Prior Service Certificate. Such accumulation shall be at regular interest and on the basis that interest is allowed at the end of each twelve (12) months period and is allowed on the accumulation at the beginning of each such twelve (12) months period and is not to be allowed for parts of a year.

7. "Accumulated Prior Service Credit" shall mean the "prior service credit" allowed a member as of the effective date of becoming a member, accumulated at regular interest from such date until the effective date of such member's retirement.

#### Benefits

##### Sec. VII. 1. Service Retirement Benefits

(a) Any member, after one (1) year from the effective date of his membership, shall be eligible for service retirement who (1) shall have attained the age of sixty (60) years and shall have completed at least fifteen (15) years of creditable service, or (2) shall have completed twenty-eight (28) years of creditable service.

(b) Application for service retirement shall be made to the Board setting forth the date the member desires his retirement to become effective provided: (1) such application shall be executed and filed at least thirty (30) and not more than ninety (90) days prior to the date on which such retirement is to become effective; (2) the effective date specified in the application shall be the last day of a calendar month, and shall not be a date preceding the termination of the member's employment with an employing municipality.



(c) With the provision that no retirement shall be effective within one (1) year after the effective date of his membership, each member shall be retired from employment by all municipalities on the last day of the calendar year in which the age of sixty-five (65) is attained, or upon the last day of the calendar year in which he completes fifteen (15) years of creditable service, whichever shall last occur; provided, however, that in exceptional cases and for substantial cause such retirement may be deferred by mutual consent of the member and the employing municipality from year to year for a period of not to exceed one (1) year at any time, but in the case of any member who was under the age of fifty (50) years on the effective date of last becoming a member, such member's retirement shall not be so deferred beyond the last day of the calendar year in which he attains the age of seventy (70) or the last day of the calendar year in which he completes fifteen (15) years of creditable service, whichever shall last occur.

(d) Any member who has accepted service retirement shall be ineligible and disqualified to resume or continue service in any participating municipality.

## 2. Allowance for Service Retirement

Upon retirement for service a member shall receive a service retirement allowance consisting of a current service annuity, which shall be the actuarial equivalent of his current service annuity reserve, and a prior service annuity to which his accumulated prior service credits under his prior service certificate, if any, entitles him under the provisions of this Act.

(a) His current service annuity reserve shall be derived from:

(1) His accumulated deposits credited to his account in the Employees Saving Fund at the time of retirement; and

(2) An additional sum from the Municipality Current Service Accumulation Fund equal to the accumulated deposits provided by the member.

(b) If he has a prior service certificate in full force and effect, the prior service annuity shall be the actuarial equivalent of his Accumulated Prior Service Credit at time of retirement. Upon the recommendation of the actuary, the Board shall have the power to reduce payments for prior service annuities as provided in Section V of this Act.

## 3. Disability Retirement

With the provision that no retirement shall be effective within one (1) year after the effective date of membership, upon the application of a member or of his employer or his legal representative acting in his behalf, any member with less than ten (10) years of creditable service may be retired by the Board, not less than thirty (30) and not more than ninety (90) days next following the date of filing of such application, on a disability retirement allowance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is the direct result of injuries sustained subsequent to the effective date of membership by external and violent means as a direct and proximate result of the performance of his duties, that such incapacity is likely to be permanent and that such member should be retired.

With the provision that no retirement shall be effective within one (1) year after the effective date of membership, upon the application of a member or of his employer or his legal representative acting in his behalf, any member with more than ten (10) years of creditable service, who is not eligible for service retirement, may be retired by the Board, not less than thirty (30) and not more than ninety (90) days next following the date of filing of such application on a disability retirement allow-

ance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

#### 4. Allowance for Disability Retirement

Upon retirement for disability a member shall receive a disability retirement allowance consisting of a current service annuity, which shall be the actuarial equivalent of his current service annuity reserve, and a prior service annuity to which his Accumulated Prior Service Credit under his prior service certificate, if any, entitles him under the provisions of this Act.

(a) His current service annuity reserve shall be derived from:

(1) His accumulated deposits credited to his account in the Employees Saving Fund at the time of retirement; and

(2) An additional sum from the Municipality Current Service Accumulation Fund equal to the accumulated deposits provided by the member.

(b) If he has a prior service certificate in full force and effect, the prior service annuity shall be the actuarial equivalent of his Accumulated Prior Service Credit at time of retirement. Upon the recommendation of the actuary, the Board shall have the power to reduce payments for prior service annuities as provided in Section V of this Act.

#### 5. Members Retired on Account of Disability

Once each year during the first five (5) years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the Board may, and upon his application shall, require any disability annuitant who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence of said annuitant or any other place mutually agreed upon, by a physician or physicians designated by the Board. Should any disability annuitant who has not yet attained the age of sixty (60) years refuse to submit to at least one (1) medical examination in any such periods by a physician or physicians designated by the Board, his allowance shall be discontinued until his withdrawal of such refusal; and should his refusal continue for one (1) year, all his rights in and to his allowance shall be revoked by the Board.

(a) Should the Medical Board report and certify to the Board that such disability annuitant is no longer physically or mentally incapacitated for the performance of duty, or that such disability annuitant is engaged in or is able to engage in a gainful occupation, and should the Board by a majority vote concur in such report, then his allowance shall be discontinued.

(b) Should a disability annuitant under the age of sixty (60) years be restored to active service in a participating department of a participating municipality, his retirement allowance shall cease, he shall again become a member of the System, and any reserves on his current service annuity at that time in the Current Service Annuity Reserve Fund shall be transferred to the Employees Saving Fund and to the Municipality Current Service Accumulation Fund, respectively, in proportion to the original sum transferred to the Current Service Annuity Reserve Fund at retirement and the reserves under his prior service annuity, if any, in the Prior Service Annuity Reserve Fund at that time shall be transferred to the Municipality Prior Service Accumulation Fund. Upon restoration to membership, any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement, he shall be credited with all his membership service. Should a disability annui-

tant die or be removed from the disability list for any cause other than restoration to active service, an amount equal to the amount by which such annuitant's accumulated deposits at the time of disability retirement exceed the current service annuity payments received by such annuitant under his disability allowance, if any such excess exists, shall be paid from the Current Service Annuity Reserve Fund to such annuitant if living; otherwise, such amount shall be paid to his estate unless he has directed such amount to be paid otherwise.

#### 6. Return of Accumulated Deposits

Should a member cease to be an employee of a participating department except by death or retirement under the provisions of this Act, he shall, upon application, be paid in full the amount of the accumulated deposits standing to the credit of his individual account in the Employees Saving Fund. Should a member die before retirement, the amount of his accumulated deposits standing to the credit of his individual account in the Employees Saving Fund shall be paid to his estate unless he has directed the account to be paid otherwise. Seven (7) years after such cessation of service, if no previous demand has been made, any accumulated deposits of a contributor shall be returned to him or to his estate. If the contributor or the administrator of his estate cannot then be found, his accumulated deposits shall be forfeited to the Retirement System and credited to the Endowment Fund.

#### 7. Optional Allowances for Service Retirement

With the provision that no optional selection shall be effective in case a retiring member dies within one (1) month after the effective date of his retirement, and that such a member shall be considered as an active member at the time of death, any member may, until the first payment on account of any service retirement benefit becomes normally due, elect to receive his current service annuity in an annuity payable throughout life, or he may elect to receive the actuarial equivalent at that time, of his current service annuity in a reduced current service annuity payable throughout life with the provision that:

Option One. Upon his death, his reduced current service annuity shall be continued throughout the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the Board at the time of his retirement; or

Option Two. Upon his death, one-half of his reduced current service annuity shall be continued through the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the Board at the time of his retirement; or

Option Three. Some other benefit or benefits shall be paid either to the member, or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the reduced current service annuity shall be certified by the actuary to be the equivalent actuarial value of his current service annuity, and approved by the Board.

With the provision that no optional selection shall be effective in case a retiring member dies within one (1) month after the effective date of his retirement and that such a member shall be considered as an active member at the time of death, any member may, until the first payment on account of any service retirement benefit becomes normally due, elect to receive his prior service annuity in an annuity payable throughout life or he may elect to receive the actuarial equivalent at that time, of his prior service annuity in a reduced prior service annuity payable as provided in Option One, Two or Three; provided that all payments under all prior service annuities are subject to adjustment by the Board as provided in Section V of this Act; provided, further, that the same option must be

selected by a member for the payment of his prior service annuity as is selected by the member for the payment of his current service annuity.

#### Administration

Sec. VIII. 1. This System shall be construed to be a Trust and shall be administered by a Board of Trustees consisting of six (6) persons, each of whom shall be designated as a trustee. Such Board shall consist of three (3) trustees, each of whom shall be a chief executive officer, chief finance officer, or other officer, executive or department head of a municipality, and each such trustee shall be designated as an executive trustee; and three (3) trustees each of whom shall be an employee of a municipality and shall be designated as an employee trustee.

The members of the Board of Trustees 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; provided, however, that the members of the Board of Trustees heretofore appointed whose terms expire on December 31, 1949 and December 31, 1950 shall continue to be members of the Board of Trustees, and their terms of office shall expire December 31, 1950, and the members of the Board of Trustees whose terms expire December 31, 1951 and December 31, 1952 shall continue to be members of said Board of Trustees and their terms of office shall expire December 31, 1952, and the Governor shall appoint two (2) additional members of said Board of Trustees whose terms shall expire December 31, 1954; and thereafter appointments shall be for a term of six (6) years. Appointments to fill vacancies caused by death or resignation shall be for the unexpired term only. Each such successor trustee shall be appointed from a participating municipality and, to the extent possible, such trustees shall be from different municipalities. A person appointed as a trustee shall qualify as a trustee upon the presentation to the Board of a certified copy of an oath of office taken before the clerk of the municipality by which such person is employed.

Any trustee after the original trustees shall be disqualified immediately upon termination of employment or office with all participating municipalities or upon any change in status which removes any such trustee from employment or office within the group which he represents. All trustees shall serve without compensation, but shall be reimbursed for any reasonable traveling expenses incurred in attending meetings of the Board and for the amount of any earnings withheld by any employing municipality because of attendance of any Board meeting. Each trustee shall be entitled to one (1) vote on any and all actions before the Board for consideration at any Board meeting, and at least four (4) concurring votes shall be necessary for every decision or action by the Board at any of its meetings.

2. The Board shall have, in addition to all other powers and duties arising out of this Act not otherwise specifically reserved or delegated to others, the following specific powers and duties and is hereby authorized and directed to:

(a) Hold regular meetings in March, June, September and December of each year, and such special meetings at such other times as may be called by the Director upon written notice to the trustees. Five (5) days notice of each special meeting shall be given to each trustee, unless such notice is waived. All meetings of the Board shall be open to the public and shall be held in the offices of the Board or in any other place specifically designated in the notice of any meeting.

(b) Consider and pass on all applications for annuities and benefits, authorize the granting of all annuities and benefits and suspend any payment or payments, all in accordance with the provisions of this Act.

(c) Certify all normal contribution rates, all prior service contribution rates and the current rate of interest as approved in writing by the actuary and notify all participating municipalities thereof.

(d) Obtain such information from any member or from any participating municipality as shall be necessary for the proper operation of the System.

(e) Establish an office in either the Capital City or in one of the participating municipalities. All books and records of the System shall be kept in such office.

(f) Appoint a Director for the purpose of managing this municipal System, investing the Funds and carrying out the administrative duties of the System, appoint an actuary for the purpose of carrying out all the necessary actuarial requirements of the System, appoint an attorney, appoint a Medical Board and employ such additional actuarial, clerical, legal, medical and other assistants as shall be required for the efficient administration of the System; and determine and fix the compensation to be paid.

(g) Have the accounts of the System audited at least annually by a Certified Public Accountant.

(h) Submit an annual statement to the governing body of each municipality and to any member, upon request, as soon after the end of each calendar year as possible. Such statement shall include at least the following: a balance sheet showing the financial and actuarial condition of the System as of the end of the calendar year; a statement of receipts and disbursements during each year; a statement showing changes in the asset, liability, reserve and surplus accounts during the year; and such additional statistics as are deemed necessary for a proper interpretation of the condition of the System.

(i) The Board annually on December 31 shall allow regular interest on the mean amount in the Current Service Annuity Reserve Fund for the year then ending and shall allow regular interest on the mean amount in the Municipality Prior Service Accumulation Fund for the year then ending and shall allow regular interest on the mean amount in the Prior Service Annuity Reserve Fund during such year and shall allow current interest as defined in Section II of this Act on the amount in the Municipality Current Service Accumulation Fund at the beginning of such year and on the amount in the Endowment Fund at the beginning of such year and on an amount in the Employees Saving Fund equal to the sum of the accumulated deposits standing to the credit at the beginning of such year of all members included in the membership of the System on December 31 of such year, before any transfers for retirement effective December 31 of such year are made. The amounts so allowed shall be due and payable to said funds and shall be credited thereto by the Board on December 31 of each year from the moneys of the System held in the Interest Fund, provided that current interest shall not be at a rate greater than two and one-half per cent (2½%) per annum and that any excess earnings over such amount required shall be paid to the Interest Reserve Account of the Endowment Fund.

(j) Accept any gift, grant or bequest of any money or securities for the purposes designated by the grantor, if such purposes are specified as providing an endowment or retirement benefits to some or all of the participating employees or annuitants of this System, or if no such purposes are designated, for deposit to the credit of the Endowment Fund.

(k) Determine the limitations on the amounts of cash to be invested in order to maintain such cash balances as may be deemed advisable to meet payments of benefits and expenses, and invest the remaining available cash in securities in accordance with Subsection (g) of this Section.

(l) Keep in convenient form such data as shall be necessary for all required calculations and valuations as required by the actuary and keep a permanent record of all the proceedings of the Board.

(m) The Board shall have power to incur indebtedness and to borrow money upon the faith and credit of the System for the purpose of paying and providing for the payment of the expenses incident to the operation of the System, and to renew, extend or refund such indebtedness heretofore incurred or hereafter incurred, and for such purposes to issue and sell the negotiable promissory notes or negotiable bonds of the Texas Municipal Retirement System, maturing within twenty (20) years from date of issuance, and bearing interest at a rate not to exceed six per cent (6%) per annum; and such notes or bonds shall be a charge against and shall be payable from the Expense Fund of the System, hereinabove provided for, but shall expressly provide that the same shall never be held or considered to be an obligation of the State of Texas; but the total indebtedness against the Expense Fund of the System shall never exceed at any one time the sum of Seventy-five Thousand Dollars (\$75,000).

(n) Establish such rules and regulations not inconsistent with the other provisions of the Act and generally carry on such other reasonable activities as are deemed necessary or desirable for the efficient administration of the System.

3. The Director shall be in charge of the technical administration of the System and shall have such additional powers and duties as are properly delegated by the Board.

4. The Board shall designate an actuary who shall be the technical advisor of the Board on matters regarding the operation of the Funds created by the provisions of this Act and shall perform such other duties as are required in connection therewith.

As soon as practicable after the establishment of the System, and at least once in each five (5) year period thereafter, the actuary shall make such general investigation of the mortality, and service experience of the members and annuitants of the System as he shall recommend and on the basis of such investigation, he shall recommend for adoption by the Board such tables and rates as are required.

On the basis of such tables and rates as the Board shall adopt, the actuary shall:

(a) Calculate the normal contribution rate for participating municipalities;

(b) Calculate the prior service contribution rate for participating municipalities;

(c) Calculate the current interest rate;

(d) Certify the amounts of each annuity and benefits granted by the Board; and

(e) Make an annual valuation of the assets and liabilities of the funds of the System created by this Act.

4. The Board shall designate an attorney who shall be the legal adviser to the Board and shall represent it in all litigation.

5. The Board shall designate a Medical Board to be composed of three (3) physicians not eligible to participate in the Retirement System. The physicians so appointed by the Board shall be legally qualified to practice medicine in Texas and shall be physicians of good standing in the medical profession. If required, other physicians may be employed to report on special cases. The Medical Board shall pass upon all medical examinations required under the provisions of this Act, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report

in writing to the Board its conclusion and recommendation upon all the matters referred to it.

6. The assets of the System, in excess of the amount of cash required for current operations as determined by the Board, shall be invested and reinvested in the following types of securities:

(a) Interest-bearing bonds or notes which are general obligations of the United States, or of the State of Texas, or of any municipality in the State of Texas.

(b) Interest-bearing bonds or notes which are general obligations of any state in the United States other than Texas or of any city or county therein, provided such city or county had a population as shown by the last Federal Census next preceding such investment, of not less than Thirty Thousand (30,000) inhabitants, and provided that such state, city or county has not defaulted for a period longer than thirty (30) days in the payments or interest or principal on any of its general obligations indebtedness during the ten (10) calendar years immediately preceding such investment.

7. All money received by the Board shall immediately be deposited with a depository for the Account of the System. All disbursements shall be made only upon vouchers signed by the person or persons designated for such purpose by resolution of the Board, and the depository is hereby authorized to pay the vouchers or checks so signed. The depository shall accept all warrants so signed and shall be released from liability for all payments made thereon. Checks or warrants shall be drawn only upon proper authorization by the Board, properly recorded in the official minute books of the meetings of the Board. All securities of the System when received, shall be deposited in Trust with a depository designated by the Board and the depository shall provide adequate safe deposit facilities for their preservation. The assets of the System shall be invested as one Fund, and no particular person or municipality shall have any right in any specific security or in any item of cash other than an undivided interest in the whole, as set forth in the provisions of this Act.

#### **Depositories**

Sec. IX. In handling the funds of the System created by this Act, the Board shall have and is hereby given all the power, authority and duties granted the State Depository Board and shall designate depositories to qualify and serve such System in accordance with the provisions of Chapter I, Title 47, Revised Civil Statutes of Texas of 1925, together with all amendments thereto.

#### **Merger with other Systems**

Sec. X. The merger of other Pension Systems for municipal employees is hereby authorized upon terms to be fixed by the Board of Trustees of this System and trustees of such other system and such merger has been approved by a majority vote of such other system.

#### **Consolidation with Firemen's Relief Pension Fund**

Sec. XI. When the members of the Fire Department of a municipality by their election and with the consent of their employer become participants of this municipal system upon the voluntary application of the employing municipality, the Funds, if any, of the "Firemen's Relief and Retirement Fund" of such municipality and all future payments to such Fund may be transferred to the Board and credited to its Prior Service Reserve Fund.

All distributions and payments which could be made annually to a "Firemen's Relief and Retirement Fund" for the firemen of any partici-

pating municipality, if the firemen of such municipality were not covered by this or some other Pension or Retirement System or if such participating municipality has or had taken the proper steps to secure such Funds, shall be paid over to the Board and credited for the benefit of such firemen as the Board shall direct.

#### Miscellaneous

Sec. XII. 1. Each member shall, by virtue of the payment of the deposits required to be paid to this System, receive a vested interest in such deposits.

2. Venue of any action by or on behalf of Texas Municipal Retirement System or the Board of Trustees of Texas Municipal Retirement System against any participating municipality, or against any officer or Board of Officers of any participating municipality to compel accounting by such municipality or by such officer or officers of such participating municipality for any sums due by the participating municipality to the System, or due to the System as contributions of participants, or to require withholding of and accounting for sums due from participants, shall lie in Travis County, Texas, as well as in the county in which such municipality is situated.

3. The assets of the System shall be invested as one (1) Fund, and no particular person, group of persons or entity has any right in any specific security or property or in any item of cash other than an undivided interest in the whole as specified in the provisions of this Act as it now exists or is subsequently amended.

4. All annuities and other benefits payable under the provisions of this Act and all accumulated credits of employees in this System shall be unassignable and shall not be subject to execution, garnishment or attachment.

5. Any person who shall knowingly make any false statement in any report or application to the System, in an attempt to defraud the System, or who shall knowingly make a false certificate of any official report to the System, shall be guilty of a misdemeanor and shall be punished therefor by fine of not less than One Hundred Dollars (\$100) and not more than One Thousand Dollars (\$1,000), or by confinement in jail for a term of not less than thirty (30) days nor more than one (1) year, or by both such fine or imprisonment.

6. The Board shall require and secure at the expense of the System such Fidelity Bond as it may deem proper for the faithful performance of the duties of the Director. As amended Acts 1949, 51st Leg., p. 24, ch. 24, art. 1.

Article 3 of the amendatory Act of 1949 repealed all conflicting laws and parts of laws.

Article 4 of the Act of 1949 read as follows: "If any Article, section, paragraph, sentence or clause of this Act is held to be

invalid or unconstitutional, the remaining Articles, sections, paragraphs, sentences and clauses shall continue in full force and effect and shall be construed thereafter as being the entire provisions of this Act."

#### Art. 6243h—1. Loan from General Revenue Fund to Municipal Retirement System

For the purpose of providing the Texas Municipal Retirement System with the funds necessary for organizational expenses which will be incurred prior to such time as the income to the Expense Fund of the System is sufficient to provide for operational expenses, there is hereby authorized to be made to the System a loan in the amount of Fifty Thousand Dollars (\$50,000) out of the General Revenue Fund of the State of Texas, upon the terms and conditions hereinafter provided. The Board



of Trustees of the Texas Municipal Retirement System shall by resolution authorize the execution of the promissory note of the Texas Municipal Retirement System, payable to the State of Texas for the principle amount of Fifty Thousand Dollars (\$50,000), and the execution of said note shall be attested by the signature of the Director of the System and the Seal of the System shall be impressed thereon. Such note shall bear no interest, and shall provide that, beginning with the year 1950, the Board of Trustees of said System shall certify to the State Comptroller and the State Treasurer on December 31 of each year the amount of expense contributions received by the System from members and participating municipalities during such year for deposit to the Expense Fund provided for in this Act, and shall pay to the State Treasurer for deposit to the General Revenue Fund of the State of Texas in repayment of said note, ten per cent (10%) of the amount of such expense contributions so received in each such year. Such payments shall continue until the Fifty Thousand Dollars (\$50,000), advanced by the State to the System has been repaid in full, at which time such payments shall cease.

Immediately upon delivery of such note to the State Treasurer, the State Comptroller is hereby authorized and directed to issue his warrant drawn upon the General Revenue Fund of the State, payable to the Texas Municipal Retirement System, and the State Treasurer is hereby authorized and directed to pay over on surrender of said warrant to the System, Fifty Thousand Dollars (\$50,000) out of any moneys in the General Revenue Fund of the State of Texas not otherwise appropriated, and the Board of Trustees of said System shall deposit such funds in an authorized depository of the System to the credit of the Expense Fund. Acts 1949, 51st Leg., p. 24, ch. 24, art. 2.

**Art. 6243i. Police officers' pension system in cities of 175,000 to 240,000 population**

**Creation of system**

Section 1. There is hereby created in this State a Police Officers' Pension System in all cities having a population of not less than one hundred and seventy-five thousand (175,000) inhabitants, nor more than two hundred and forty thousand (240,000) inhabitants, according to the last preceding or any future Federal Census; provided, however, that once such pension system becomes operative in any city, any right or privilege accruing to any member thereunder shall be a vested right and the same shall not be denied or abridged thereafter through any change in population of any such city taking such city out of the population bracket as herein prescribed, and said pension system shall continue to operate and function regardless of whether or not any future population exceeds or falls below said population bracket.

**Definitions**

Sec. 2. The following words and phrases when used in this Act are defined as follows, to wit:

(a) "Pension System" means the retirement, allowance, disability and pension system for employees of any Police Department coming within the provisions of this Act.

(b) "Member" means any and all employees in the Police Department who are engaged in law enforcement duties except special officers, part-time officers, janitors, car washers, cooks, and secretaries.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under the Act for the purpose of administering the Pension System.

(d) "Service" means the services and work performed by a person employed in the Police Department.

(e) "Pension" means payments for life to the Police Department member out of the Pension Fund provided for herein upon becoming disabled or reaching retirement as provided herein and becoming eligible for such payments.

(f) "Separation from service" means cessation of work for the city in the Police Department, whether caused by death, discharge or resignation, or transfer to any other department of the city.

(g) The use of the masculine gender includes the feminine gender.

(h) "Prior service credit" means credit for service rendered as a city by an employee in the Police Department prior to his becoming a member of the Pension System.

(i) "Performance of duty" means the duties usually performed by a policeman during his regular working hours and at other times when he is called upon to perform emergency duties within the regular scope of his employment.

#### Membership

Sec. 3. Any person except as herein provided, who is an employee of such city in the Police Department on the effective date hereof, shall be eligible for membership in the Pension System, and shall automatically become a member upon the expiration of ninety (90) days from the effective date hereof, unless the employee has filed with the Pension Board his written election not to become a member, which shall constitute a waiver of all present and prospective benefits which otherwise would inure to him by participation in the System. But any member of the Police Department of such city, whose membership in the Pension System is contingent upon his own election and who elects not to participate, may later become a member provided he passes such medical examination as the Pension Board may require. If such employee becomes a member within six (6) months after the effective date of this Act, the employee shall be eligible for prior-service credit, but if he does not become a member within such period, he shall not be eligible for prior-service credit. Written notice shall be given each and every member of the Police Department eligible for membership in the Pension System by the Secretary of the Pension Board within sixty (60) days from the passage of this Act informing him of the terms and provisions of this paragraph.

(b) Any person who hereafter becomes an employee of such city in the Police Department after the passage of this Act shall automatically become a member of the Pension System as a condition of his employment, and he will be required to sign a letter making application for Pension Benefits.

(c) Part-time, seasonal, or other temporary employees shall not become, nor be eligible as, members of the Pension System.

#### Pension Board

Sec. 4. (a) There is hereby created in any city within this Act a Pension Board for the Police Officers' Pension System. Said Board is hereby vested with the general administration, management and control of the Pension System herein established for said city.

(b) The Board shall be composed of seven (7) members, as follows:

(1) The Mayor, to serve for the term of office to which he was elected;

(2) The Chief of Police, to serve until his successor is qualified;

(3) The City Treasurer, to serve until his successor is qualified;

(4) Three (3) active policemen who shall be selected by a majority vote of the members of the Pension System; said policemen members shall serve for a period of two (2) years and until their successors are

elected and qualified. Vacancies occurring by reason of expiration of term of office, death, resignation or removal shall be filled by an election by a majority vote of the members of said Pension System;

(5) One (1) legally qualified taxpaying voter of the city, who has been a resident thereof for the preceding three (3) years; such member, being neither officer nor employee of the city, shall be chosen by the other six (6) members of the Board, and he shall serve for a period of two (2) years and until his successor is selected and qualified.

Said Board, as herein provided, shall be selected and organized upon the passage of this Act and shall hold its office until the next general election in such city for municipal officers, at which time a permanent Board shall be selected, as herein provided. The said Board shall organize by choosing one (1) member as Chairman; one (1) member as Vice-Chairman; and one (1) member as Secretary. Beginning with the first day of January, 1950, and annually thereafter, the Board shall elect its Chairman, Vice-Chairman and Secretary for the ensuing year.

(c) Each member of the Pension Board within ten (10) days after his appointment and election shall take an oath of office that he will diligently and honestly administer the affairs of the Pension System and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this law.

(d) Pursuant to the powers granted under the charter of such city, the mayor shall appoint one or more employees whose positions and salaries shall be fixed by the governing body of such city and who, acting under direction of the Pension Board, shall keep all of the records of and perform all of the clerical services for the Pension System. The salaries of such employees shall be paid by the city.

(e) Five (5) members of the Board shall constitute a quorum, and a majority vote of those members present shall be necessary for a decision of said Board.

(f) No moneys shall be paid out of the Pension System Fund except by warrant, check, or draft signed by the Treasurer and countersigned by either the Chairman or Secretary, upon an order by said Pension Board duly entered in the minutes.

(g) The Pension Board shall determine the prior-service to be credited to each present employee of the Police Department who becomes a member of the Pension System. The Board shall rely upon the personnel records of such city in determining such prior-service credit. After obtaining the necessary information such Board shall furnish each member of the Pension System a certificate showing all prior-service credits authorized and credited to such member. Such member may, within one (1) year from the date of issuance or modification of such certificate, request the Board to modify or change his prior-service certificate, otherwise such certificate shall be final and conclusive for retirement purposes as to such service.

#### **Treasurer**

Sec. 5. The City Treasurer is hereby designated as the Treasurer of said Pension System Fund for said city Police Officers' Pension System, and his official bond to said city shall operate to cover his position as Treasurer of such Pension System Fund and his sureties shall be liable in connection with the Treasurer's actions pertaining to such Fund as fully as they are liable under the terms of said bond for the other actions and conduct of said Treasurer. All moneys of every kind and character collected or to be collected for said Pension System shall be paid over to the said Treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

**Payments by members**

Sec. 6. Commencing with the first day of the month after the expiration of ninety (90) days from the passage of this Act, each member of the Pension System shall pay monthly into the Pension System Fund not less than four per cent (4%) nor more than seven per cent (7%) of his statutory minimum and longevity pay. Subject to this limitation, the Pension Board shall set the amount that each member shall pay into said Pension System Fund. Said payments into the Pension System Fund shall be effected by the city's deducting the amount to be contributed by each member of said Pension System from his wages earned. Said deduction shall be paid into the Pension System Fund by the city.

**Payments into fund by city**

Sec. 7. In addition to the payments in the next preceding Section such city shall pay monthly into such Pension System Fund, from the general or other appropriate fund of any such city, an amount equal to the total sum paid into such Fund by salary deductions of members as set out in the next preceding Section.

**Depletion of fund; reduction of benefits**

Sec. 8. In the event the Pension System Fund becomes seriously depleted, in the opinion of the Pension Board, said Pension Board may proportionately and temporarily reduce the benefits of all pensioners and beneficiaries, but such reduction of benefits shall continue only for such time as such depleted condition continues to exist, and after such time of depletion has ceased to exist and the Pension Board finds said Pension System Fund is in condition to warrant, it shall thereafter restore the benefits and resume payment of all pensioners and beneficiaries as though such preceding reductions had not occurred.

**Investment of surplus**

Sec. 9. Whenever in the opinion of the said Pension Board there is on hand in said Pension System Fund a surplus over and above a reasonably safe amount to take care of current demands upon such funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest-bearing obligations and securities of the United States, the State of Texas or any city or any county.

**Transfer of pro rata share of existing fund**

Sec. 10. Immediately upon this Act becoming a law, there shall be transferred to the Police Officers' Pension System the pro rata share of any pension fund heretofore existing to which police officers have contributed, including the pro rata part of the fund paid by the city and all accumulated interest on the money which both the policemen and the city have heretofore contributed to the fund. It shall be the duty of the city official or officials responsible for said existing fund to make such transfer immediately.

**Retirement pension**

Sec. 11. From and after the passage of this Act, any member of such Pension System who has been in the service of the City Police Department for a period of twenty-five (25) years shall receive from the Pension Board a pension certificate. Any person who holds a pension certificate and who has attained fifty-five (55) years of age shall be entitled to a monthly retirement pension equal to one-half ( $\frac{1}{2}$ ) of his statutory minimum pay plus one-half ( $\frac{1}{2}$ ) of his longevity pay, which he received when such certificate was awarded, each month for the rest of his life.

upon his retirement from the services of said City Police Department; provided, however, said monthly retirement pension shall not exceed the sum of One Hundred and Twenty-five Dollars (\$125). However, when a member has served twenty-five (25) years or more in the Police Department and has attained the age of fifty-five (55) years, if he desires and if the physicians employed by the Pension Board agree that said member is physically fit to continue his active duties in the Police Department, he may continue such duties until he is not over sixty-five (65) years of age, and when he retires he will receive in addition to his monthly retirement pension set out above, a service bonus of One Dollar (\$1) per month for each year of service over and above the amount per month payable if he had retired when he attained the age of fifty-five (55) years. It shall be compulsory for any member to retire from service upon attaining sixty-five (65) years of age; failure of any member of the Pension System to comply with this provision shall deprive the member or his dependents of any of the benefits provided for herein. If at the time of retirement such member has completed less than twenty-five (25) years of service, but more than twenty (20) years of service, his retirement pension shall be pro rated. For example, if the employee has completed only twenty (20) years of service, his monthly pension would be four-fifths ( $\frac{4}{5}$ ) of one-half ( $\frac{1}{2}$ ) his statutory minimum pay and one-half ( $\frac{1}{2}$ ) his longevity pay. No member shall be required to make any payments into the Pension System Fund after he has been issued a pension certificate and who has retired from active service in the Police Department. However, if he continues to work for the City Police Department after receiving a pension certificate, he shall continue his monthly payments into the Pension System Fund until he retires.

#### Pensions to widow and dependents

Sec. 12. If any member of the Police Department, who has been retired on allowance because of length of service or disability, shall thereafter die from any cause whatsoever or shall die from any cause whatsoever after he has become entitled to an allowance or pension certificate, or if while in service any member shall die from any cause growing out of or in consequence of the performance of his duty, and shall leave surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent, said Board shall order paid a monthly allowance as follows: (a) To the widow so long as she remains a widow, sixty per cent (60%) of the pension per month that said member would have received if living and had retired with twenty-five (25) years of service, provided she shall have married such member prior to his retirement; (b) to the guardian of each child the sum of Six Dollars (\$6) per month until such child reaches the age of eighteen (18) years or marries; (c) to the dependent parent, only in case no widow is entitled to allowance, the sum the widow would have received to be paid to but one parent and such parent to be determined by the Pension Board, and (d) in the event the widow dies after being entitled to her allowance as herein provided, or in the event there be no widow or dependent parent to receive such allowance, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be increased to the sum of Twelve Dollars (\$12) per month for each said dependent minor child; and provided that such minor child under eighteen (18) years of age is unmarried. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries.

If a member of this Pension System is killed while performing his official duties, or dies from injuries received while performing such duties,

the same benefits payable under the provisions of this Act to Pension System members who hold a pension certificate and have attained fifty-five (55) years of age, shall be paid to the persons designated in this Section.

**Death from natural causes or causes not covered**

Sec. 13. If a member of this Pension System dies from natural causes or from any cause not covered under the provisions of this Act, the Pension Board shall pay to his estate all of the exact amount of money he has heretofore paid into the Pension System Fund in lieu of any other benefit provided for herein.

**Retirement for disability**

Sec. 14. Any member of this Pension System who becomes incapacitated for performance of his duty by reason of any bodily injury received in, or illness caused by the performance of his duty, shall be retired upon presentation to the Pension Board of proof of the disability, and shall receive a retirement allowance equal to the percentage of his disability; for example, if he is fifty per cent (50%) incapacitated, he shall receive fifty per cent (50%) of the amount he would receive if retired after completion of twenty-five (25) years service per month during the remainder of his life or so long as he remains incapacitated. Provided, however, that if, at that time, he is qualified as to age and service for retirement, he shall receive the full amount of pension per month, or in the event he is past fifty-five (55) years of age and has more service than the minimum of twenty-five (25) years, and becomes incapacitated he shall receive the full amount of pension per month plus One Dollar (\$1) for each additional year as his service bonus. When any member has been retired for permanent, total or partial disability, he shall be subject at all times to re-examination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member shall refuse to submit himself to any such examination, the Pension Board may, within its discretion, order said payments stopped. If a member who has been retired under the provisions of this Section should thereafter recover, so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for said city in the Police Department, and such member is reinstated or tendered reinstatement to the position he held at the time of his retirement, then the Pension Board shall order such pension payment stopped. No person shall be retired either for total or partial disability unless there shall be filed with the Pension Board an application for pension benefit, at which time the Pension Board shall have him examined by no fewer than three (3) physicians, to be chosen by the Pension Board and to make their report to the Pension Board. If a policeman is hurt while working on a regular shift or tour of duty, or if he is at home or some other place and an emergency arises wherein he has to perform the official duties of a policeman and is injured, he shall receive the benefits of this Act. In all cases where a policeman seeks benefits under this section, it shall be the duty of the Pension Board to determine if the policeman did receive his injuries in the performance of his duty.

**Computation of period of service**

Sec. 15. In computing the twenty-five (25) years of service required for a retirement pension, twenty-five (25) years of continuous service shall be required; provided, however, that in case of interruption of less than two (2) years, credit shall be given for previous service if out of service more than two (2) years; no service prior to said interruption shall be counted, other than provided in Section 21.

**Leaving employment before becoming eligible**

Sec. 16. When any member of such Pension System shall leave the employment of such Police Department except as specifically provided for herein, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall cease to be a member of such Pension System. No member shall be refunded any money which he paid into the Pension System Fund on leaving the Police Department other than regular service or disability pension allowances. When a member has left the service of the City Police Department as aforesaid and has therefore ceased to be a member of such Pension System, if such person shall thereafter be re-employed by the City Police Department, he shall thereupon be reinstated as a member of such Pension System provided he is in good physical and mental condition as evidenced by a written certificate executed under oath by a duly licensed and practicing physician or physicians in the city, satisfactory to the Pension Board. Prior-service of such member with such City Police Department shall not be counted toward his retirement pension unless such member returns to the service within two (2) years from his separation therefrom, and also shall, within six (6) months after his re-employment by the city in the Police Department, make a written application to the Pension Board for reinstatement in the Pension System.

**Transfers from other city departments**

Sec. 17. No prior credit shall be allowed for service to any person who may hereafter transfer from some other department in the city to the Police Department. Policemen now serving who have heretofore transferred from some other city department may be given credit for such prior-service by the Pension Board. The prior-service credits shall all be granted within sixty (60) days after this Act becomes law. For example, if one is transferred from some other department of the city to the City Police Department, sixty-one (61) days after this Act becomes law, such person's service will be computed only from the day he enters the City Police Department.

**Gifts and donations**

Sec. 18. The Police Officers' Pension System may accept gifts and donations and such gifts or donations shall be added to the Pension Fund for the use of such System.

**Legal matters**

Sec. 19. The City Attorney of such city shall handle all legal matters for the Pension System which are referred to him by the Pension Board or city without additional compensation therefor. The Pension Board may, however, employ an attorney, or attorneys, to handle its legal matters and shall pay reasonable compensation therefor out of said Pension System Fund.

**Exemption from legal process; assignment or transfer**

Sec. 20. No portion of any such Pension System Fund, either before or after its order of disbursement by said Pension Board, and no amounts due or to become due any beneficiary or pensioner, under this Act, shall ever be held, seized, taken, subjected to, detained, or levied upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, and no process or proceedings whatsoever, shall issue out of by any Court of this State for the payment or satisfaction, in whole or in part, out of said Pension System Fund, of any debt, damage, claim, demand, or judgment against any such members, pensioners, dependents, or any person whomsoever, nor shall such Pension System Fund or any

part thereof, or any claim thereto, be directly or indirectly assigned or transferred. Any attempt to transfer or assign the same or any part thereof or any claim thereto shall be void. Said Funds shall be sacredly held, kept, and disbursed for the purposes provided by this Act, and for no other purpose whatsoever.

#### Military service

Sec. 21. Members of the Pension System engaged in active military service required because of a National Emergency shall not be required to make the monthly payments into the Pension System Fund provided for in this Act, nor shall they lose any previous years of service with the Police Department caused by such military service. Such military service shall count as continuous service in the Police Department, provided that when the member is discharged from the military service he shall immediately return to his former duties with the City Police Department. The city, however, shall be required to make its regular monthly payments into the Pension System Fund on each member while he is so engaged in such military service. In the event of death of a member of this Pension System, either directly or indirectly caused from such military service, his widow or dependent parent or other dependents shall not be entitled to receive any benefits from this Fund.

#### Civil actions

Sec. 22. The Pension Board of any city as herein created and constituted shall have the power and authority to recover by civil action from any offending party, or from his bondsmen, if any, any moneys paid out or obtained from said Pension Fund through fraud, misrepresentation, theft, embezzlement, or misapplication, and may institute, conduct and maintain such action in the name of said Board for the use and benefit of such Fund.

#### Partial invalidity

Sec. 23. If any provision, section, part, subsection, sentence, clause, phrase, or paragraph of this Act be declared invalid or unconstitutional, the same shall not affect any other portion or provision hereof, and all other provisions shall remain valid and unaffected by such invalid portion, if any.

#### Former employees now receiving pension

Sec. 24. Immediately upon this Act becoming a law, the former employees of any such Police Department who are now being paid a pension from a pension fund, shall hereafter be paid a monthly pension of One Hundred Dollars (\$100) per month out of the Pension Fund provided for herein. Any such city shall have the right and option to pay such former employees any amount over and above those hereinabove provided for, but such additional payments, if any, shall be borne by such city and not the Pension Fund. Acts 1949, 51st Leg., p. 564, ch. 307.

Section 25 of the Act repeals all conflicting laws and parts of laws.

#### Title of Act:

An Act establishing a Police Officers' Pension System in all cities of this State having a population of not less than one hundred and seventy-five thousand (175,-

000) inhabitants, nor more than two hundred and forty thousand (240,000) inhabitants, according to the last preceding or any future Federal Census; providing a saving clause; repealing all laws or parts of laws in conflict herewith; and declaring an emergency. Acts 1949, 51st Leg., p. 564, ch. 307.



**TITLE 110A—PUBLIC OFFICES**

Art.

6252—2. Failure to publish legal notices  
or financial statements.

6252—3. Payroll bond purchases.

**Art. 6252—2. Failure to publish legal notices or financial statements**

Section 1. All public officers of the State, counties, cities and school districts who are required by law to publish legal notices or financial statements and who shall fail, refuse, or neglect to make such publications shall be guilty of non-feasance of office and subject to forfeiture of salary for the month in which such failure occurs. Such officers shall be subject to removal from office upon wilful continuance of such neglect of duty.

Sec. 2. Suits to enjoin or recover payment of salary and for removal from office under this law shall be instituted in the proper District Court by the County or District Attorney of the county in which the offending officer resides. Acts 1949, 51st Leg., p. 652, ch. 337.

Title of Act:

An Act providing that all public officers of the State, counties, cities, and school districts who are required by law to publish legal notices or financial statements, who shall fail, refuse or neglect to make such publications, shall be guilty of non-

feasance of office and subject to forfeiture of salary for the month in which such failure occurs; and providing for the removal from office of such persons, upon wilful continuance of such neglect of duty; and declaring an emergency. Acts 1949, 51st Leg., p. 652, ch. 337.

**Art. 6252—3. Payroll bond purchases****Withholding portion of compensation**

Section 1. Whenever any officer or employee of the State of Texas, or of any county or other political subdivision or municipal corporation therein, shall voluntarily authorize in writing his or her department head, in case such person is a state officer or employee, or the disbursing officer of the county or other political subdivision or municipal corporation, in case such person is an officer or employee of the county or other political subdivision or municipal corporation, to withhold a specified portion of his or her salary or compensation for the purpose of purchasing United States Savings Bonds, said department head or disbursing officer, as the case may be, may withhold from such person's salary or compensation for the period and in the amount stated in the authorization, each and every payday during such period, unless such authorization is terminated as hereinafter provided. Such withholding shall be effected by deducting the amount so authorized on the payroll of such department, county, political subdivision or municipal corporation when presented to the Comptroller of Public Accounts or other disbursing officer, as the case may be, for warrants to be issued in payment thereof.

**Form of payrolls; warrants; trust account**

Sec. 2. The Comptroller of Public Accounts shall prescribe the proper form of payroll for State officers and employees in order to comply with this purpose. The disbursing officer of the county or other political subdivision or municipal corporation referred to herein shall, for the same purpose, prescribe the proper form of payroll for the officers and employees thereof. When such payroll is presented to the Comptroller or other disbursing officer, as the case may be, for payment, a warrant shall issue to each officer or employee, whose name appears thereon, for the full amount of his or her salary less the amount deducted for the purpose

of purchasing United States Savings Bonds, and a warrant shall issue to the State Department head or to the disbursing officer referred to herein, as the case may be, for the total amount deducted for all officers or employees for the current payroll period. The warrant for said total deduction shall be deposited with the State Treasurer, or with the official Treasurer of the county or other political subdivision or municipal corporation, as the case may be, in trust to be held by said officer until disbursed by said department head or disbursing officer, as the case may be, for the purchase of United States Savings Bonds for the individual designated in said authorization filed with said department head or disbursing officer. Said trust account shall be designated as "War Bond Payroll Savings Account," and funds deposited therein shall be paid out by said Treasurer on proper warrants drawn by said department head or disbursing officer, as the case may be.

**Purchase of savings bonds; records**

Sec. 3. The department head or disbursing officer, as the case may be, shall use such funds so withheld and so deposited in trust for the purpose of purchasing United States Savings Bonds of the denomination designated and authorized in said written authorization, whenever such person shall have a sufficient sum of such withheld sums to pay for such bond, and shall immediately deliver the bond to the person entitled thereto or shall mail the same to the address designated by such person in said written authorization. Said department head or disbursing officer, as the case may be, shall keep proper records at all times showing itemization of moneys so withheld and disbursed by him in compliance with this Act.

**Termination of deductions**

Sec. 4. The head of any State Department or the disbursing officer of any county or other political subdivision or municipal corporation of the State of Texas shall cease to withhold any of the above-mentioned funds from any of said salaries or compensations under said written authorization upon the happening of any of the following:

- (a) Termination of employment.
- (b) Written notice of cancellation of such former authorization.
- (c) Termination of the arrangement for withholding of such funds by the State Department heads or disbursing officers, as the case may be.

Upon such termination, the money, if any, so withheld, which has not been invested in bonds, shall be immediately remitted by proper warrant to the officer or employee from whose salary or compensation such money has been withheld.

**No liability on official bonds**

Sec. 5. The head of any State Department or the disbursing officer of any county or other political subdivision or municipal corporation herein referred to shall not incur any liability on the bonds required of them as such officials on account of the duties imposed upon them under this Act. Acts 1949, 51st Leg., p. 1191, ch. 603.

**TITLE 112—RAILROADS****CHAPTER ONE—CHARTER AND AMENDMENTS****Art. 6268. 6414, 4358, 4107 Manner of renewing**

The manner of renewing a railroad corporation which has expired by lapse of time shall be as follows:

1. By a resolution in writing adopted by a majority of three-fourths of the stockholders of the company at a regular or special meeting of the stockholders, specifying the period of time for which the corporation is renewed.

2. Those desiring a renewal of the corporation shall purchase the stock of those opposed thereto at its current value.

3. The resolution, when adopted, shall be certified to by the president of the company; and he shall state in his certificate thereto that it was adopted by a majority vote of three-fourths of all the stockholders of said company at a regular or special meeting of such stockholders, and that the stockholders desiring such renewal have purchased the stock of those who oppose such renewal, and such certificate shall be attested by the secretary of the company under the seal of the company.

4. Said resolution and certificate shall be filed and recorded in the office of the Secretary of State, and the renewal of said corporation shall date from said filing. As amended Acts 1949, 51st Leg., p. 528, ch. 290, § 1.

Emergency. Effective May 28, 1949.

**TITLE 113A—REAL ESTATE DEALERS****Art. 6573a. Real estate dealers licenses****Administration of act: Texas Real Estate Commission**

Sec. 5. The Administration of the provisions of this Act shall be vested in a Commission, to be known as "Texas Real Estate Commission", consisting of six members to be appointed by the Governor with the advice and consent of two-thirds of the Senate present. They shall hold office for six years and until their successors are appointed, and have qualified; but the Commission members first appointed shall serve two, four, and six years, respectively. The Governor shall designate which appointees shall serve the two, four, and six year terms, respectively.

Such Commission is hereafter referred to in this Act as "Commission".

Each member of the Commission shall be a citizen of Texas and a qualified voter, and shall have been engaged in the real estate business for at least five years next preceding his appointment, and shall have held a license as real estate dealer under House Bill No. 17, Acts of the Regular Session of the 46th Legislature,<sup>1</sup> or any amendments thereto, at the time of his appointment and for five years prior thereto.

The members of the Commission shall receive their actual expenses while engaged in the performance of their duties, and per diem of Ten (\$10.00) Dollars per day not exceeding thirty days for any one year.

The Commission is hereby empowered to select and name an Administrator (who shall also act as Executive Secretary); the salary of such Administrator shall be such as is fixed in the General Appropriation Bill, but shall not exceed the sum of Five Hundred (\$500.00) Dollars per month. The Administrator shall take the constitutional oath of office, and shall furnish a bond payable to the Governor of Texas in the penal sum of Ten Thousand (\$10,000.00) Dollars, conditioned upon the faithful performance of his duties as provided by law.

The Commission is hereby empowered to examine witnesses and administer oaths, and it shall be its duty to investigate persons doing business in real estate in this State to ascertain whether they are violating any of the provisions of this Act, and to keep such records and minutes as shall be necessary to an orderly dispatch of business.

Wherever in this Act a power, right or duty is conferred upon the Commission, such power or right shall be exercised by the Administrator and such duty shall rest upon the Administrator unless the Commission shall otherwise order or direct by an order entered in the minutes of such Commission; and in such case, the power, right or duty shall rest in or on the Commission. Service of process upon the Administrator shall be service of process upon the Commission. Any reports, notices, applications or instruments of any kind required to be filed with the Commission shall be considered as filed with the Commission if filed with the Administrator. Where a decision, order or act of the Commission is referred to in this Act (other than an order of the Commission relative to the Administrator or his powers, rights and duties), it shall also mean and include any order, decision or act of the Administrator. Wherever the Commission is authorized herein to delegate authority or designate agents, the Administrator shall have such right and power to so delegate authority and designate agents, unless the Commission shall enter its order in the minutes di-

recting otherwise. The Administrator shall act as manager, secretary and custodian of all records unless the Commission shall otherwise order, and shall devote his entire time to his office. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

<sup>1</sup> This article.

#### Application for license

Sec. 6. (a) Any applicant desiring to act as a real estate dealer in this State shall file with the Commission an application for a license therefor. The application shall be in such form as the Commission may prescribe, and shall set forth:

(1) The name and address of the applicant; if the applicant shall be a partnership or association, the name of each member thereof; if it is a corporation, the name of such director thereof;

(2) The name under which the business shall be conducted;

(3) The place or places, including the street and number, town, village, or city and county where the business is to be conducted;

(4) The business or occupation engaged in by the applicant for a period of three years immediately preceding the date of application. If any applicant be a partnership or association, by each member thereof; if a corporation by each officer thereof;

(5) The time and place and experience of the applicant in the real estate business as a dealer or salesman. If an applicant be a partnership or association, by each member thereof; or if a corporation, by each officer thereof;

(6) Whether the applicant has ever been convicted or is under indictment for embezzlement, obtaining money under false pretense, larceny, extortion, conspiracy to defraud, or other like offense or offenses. If an applicant be a partnership or association, whether any member thereof has been convicted or indicted; if the applicant be a corporation, whether any officer or director has been convicted or indicted;

(7) Whether the applicant has been refused a real estate dealer's or salesman's license, or any other occupational or professional license in any other State; or whether his license as a dealer or salesman or any other occupational or professional license has been suspended or revoked in any other State. If the applicant be a partnership or association, whether any member has had his license as a dealer or salesman suspended or revoked or refused in any other State. If the applicant be a corporation, whether any officer or director thereof has had his license as a dealer or salesman, or any other occupational or professional license, suspended, or revoked or refused in any other State;

(8) If the applicant is a partnership, association or corporation, the name of the designated member or officer thereof who is to receive his license by virtue of the issuing of a license to the partnership, association or corporation as is provided for in Subdivision (d) of Subsection 10, of Section 6;

(9) If the applicant is a member of a partnership, association or corporation, or an officer of a corporation, the name and office address of the partnership, or association or corporation of which said applicant is a member or officer;

(10) Such application for a dealer's license shall be made by applicant. If such application is made by a partnership or association, it shall be filed by two members thereof. If made by a corporation, it shall be filed by the president and secretary thereof;

(b) Such application shall be accompanied by the recommendations of at least three citizens, not related to the applicant, who have owned real estate for a period of three years or more in the county in which the applicant resides or intends to reside or establish his place of business, and who have known applicant for a period of three years or more, which recommendation shall be under oath, and shall certify that the applicant has a reputation for honesty, truthfulness, fair dealing and competency, and recommending that license be granted to the applicant;

(c) If the applicant cannot procure such recommendation for the reason that he has not resided in the county for three years, he may furnish three recommendations from three persons where the applicant may have resided for three years prior to the filing of his application;

(d) Every partnership and association in its application shall designate and appoint one of its members, and every corporation in its application shall designate and appoint one of its officers, to submit an application for a dealer's license. The application of the said partnership, association, or corporation and the application of said member or officer so designated shall be filed with the Commission together. Upon compliance with all requirements of law by the partnership, association or corporation, as well as by said designated member or officer, the Commission shall issue a dealer's license to said partnership, association or corporation, which shall bear the name of such member or officer, and thereupon the member or officer so designated shall, without payment of any further fee, be entitled to perform all the acts of a real estate dealer contemplated by the provisions of this Act; provided, however, said license shall entitle such member or officer so designated to act as a real estate dealer only as officer or agent of said partnership, association or corporation and not in his own behalf; and provided further, that if in any case the person so designated shall be refused a license by the Commission, or in case such person ceases to be connected with such partnership, association or corporation, said partnership, association or corporation shall be entitled to designate another person to qualify and act as in the first instance;

(e) Each and every member or officer of a partnership, association or corporation who will perform or engage in any of the acts specifically set out in Section 2, Subdivision (a) of this Act, other than the designated member or officer of the partnership, association or corporation, in the manner above provided, shall be required to make application for and take out a separate dealer's license in his or her own name individually; provided, however, that the license issued to such member or officer or agent of said partnership, association or corporation shall entitle such member or officer to act as real estate dealer only as officer or agent of such partnership, association, or corporation and not on his own behalf;

(f) Every application for a salesman's license shall be made in writing upon a form prescribed by the Commission and shall contain such information as is required in a dealer's application, and shall also set forth the period of time, if any, such applicant has been in such business, stating the name and address of his last employer, the name and place of business of the person or company then employing him, and in what capacity he is employed or into whose service he is about to enter. The application shall be accompanied by a verified written statement by the dealer into whose service he is about to enter, certifying that in his opinion the applicant is honest, truthful, and of good reputation, and recommending that the applicant be granted a license.

Every application for a salesman's license shall be verified by the applicant;

(g) Every application for a real estate dealer's license or a real estate salesman's license shall be accompanied by a fee prescribed in Section 16 of this Act. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

#### Eligibility for license

Sec. 7. (a) No applicant shall be eligible to be licensed under the terms of this Act unless such applicant is at the time of the filing of such application an actual bona fide resident of this State and shall have been an actual bona fide resident of this State for at least sixty days immediately preceding the filing of such application. Provided, however, this provision shall not apply to non-resident applicants who may apply for license under the terms of Subdivision (b) hereinafter set forth.

(b) A non-resident of this State may be licensed as a real estate dealer or salesman provided such non-resident is at the time licensed under the laws of the State where he resides and which said State has legal requirements which have for their purpose the standards proposed in this Act; provided, however, that such non-resident must procure from the agency administering such law in such State, a certificate recognizing and approving the reliability and standing of such non-resident in such other State, and file same with the Commission.

(c) A non-resident who applies for a license under the privilege accorded under Section 6 of this Act and to whom a license is issued under compliance with all other requirements of law and provisions of this Act, shall not be required to maintain a definite place of business within this State; provided, such non-resident, if a dealer, shall maintain an active place of business within the State of his domicile; and provided further, that the privilege of so submitting the license of the place of his domicile of a non-resident applicant in lieu of the recommendations and requirements of this Act shall apply only to real estate dealers and real estate salesmen of the States under the laws of which similar recognition and courtesies are extended to licensed real estate dealers and real estate salesman of this State.

(d) Every non-resident applicant, before the issuance of a license, shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county in this State in which the cause may arise, or in which the plaintiff may reside, by service of process on the Administrator; and stipulating and agreeing that said service of process shall be taken and held by all courts to be as valid and binding as if due service has been made upon said applicant personally within this State. Said instrument containing such consent shall be authenticated by the seal thereof, if a corporation, and by the acknowledged signature of a member or officer thereof, if otherwise. All such applications, except from individuals, shall be accompanied by a certified copy of the resolution of the proper officers to execute the same. In case of any process for service upon the Commission, it shall be by duplicate copies, one of which shall be filed in the office of the Administrator, and the other immediately forwarded by registered mail to the main office of the applicant against whom said process is directed.

(e) Any person, firm, partnership, association, or corporation holding a real estate dealer's license, or a real estate salesman's license, or both, who are non-residents of the State and are licensed by the State of their residence to deal in real estate, are entitled to have a license issued to them to operate in this State, subject to the provisions of the Act, upon the payment of a fee of One (\$1.00) Dollar and the presenta-

tion of an affidavit to the Commission from the agency of the State of his residence showing that he is licensed to do business in that State. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Additional information required of applicant**

Sec. 8. Application for a real estate dealer's or real estate salesman's license shall contain such other information as to the applicant, in addition to the above described, as the Commission shall require. The Commission may require such other proof through the application or otherwise as the Commission shall deem desirable with due regard to the paramount interest of the public as to the honesty, truthfulness, integrity and competency of the applicant. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Issuance of license; display of licenses; change of employment by salesmen**

Sec. 9. (a) If the Commission is satisfied that the applicant for real estate dealer's or real estate salesman's license is of good business repute and that the business will be conducted in an honest, fair, just and equitable manner, and upon complying with all other provisions of law and conditions of this Act, a license shall thereupon be granted by the Commission to the successful applicant therefor as a real estate dealer or real estate salesman, and the applicant, upon receiving possession of license, is authorized to conduct the business of a real estate dealer or real estate salesman in this State.

(b) The Commission may, within the first thirty days after the effective date of this Act, issue to any applicant a temporary permit to operate as a real estate dealer or real estate salesman for a period not to exceed sixty days after the last day of said thirty-day period, which permit shall be in such form as the Commission shall prescribe; but after the expiration of the said sixty days, the Commission shall not have the authority to issue any temporary permits.

(c) The Commission shall issue to each licensee a license in such form and size as shall be prescribed by the Commission. This license shall show the name and address of the licensee, and in case of a real estate salesman's license shall show the name of the real estate dealer by whom he is employed. Each license shall have imprinted thereon the Seal of the State of Texas, and in addition to the foregoing shall contain such matter as shall be prescribed by the Commission. The license of each real estate salesman shall be delivered or mailed to the real estate dealer by whom such real estate salesman may be employed and shall be kept under the custody and control of such dealer.

(d) The Commission shall prepare and deliver to each licensee a pocket card, which card, among other things, shall contain an imprint of the Seal of the State of Texas, and shall certify that the person whose name appears thereon is a licensed real estate dealer or real estate salesman, as the case may be; and if it is a real estate salesman's card, it shall also contain the name and address of his employer; the matter to be printed on such pocket card, except as above set forth, shall be prescribed by the Commission.

(e) Every real estate dealer licensed under this Act shall have and maintain a definite place of business in this State, and such place of business may be in a portion of licensee's home set aside for said purpose. The license of the real estate dealer shall at all times be prominently displayed in licensee's place of business and a duplicate of said license shall likewise be prominently displayed in all branch offices of the licensee. The said place of business shall be specified in the application for license and designated in the license.



(f) All real estate dealers shall also prominently display in their place or places of business the license of all real estate salesmen employed by them therein or in connection therewith. All licenses issued to real estate salesmen shall designate the employer of said salesmen by name.

(g) Prompt notice in writing within ten days shall be given to the Commission by any real estate salesman of his change of employer and of the name of the new employer into whose service such salesman is about to enter or has entered, and a new license shall thereupon be issued by the Commission to such salesman for the unexpired term of the original license; provided, that such new employer shall be a duly licensed real estate dealer. The real estate dealer shall at the time of mailing such real estate salesman's license to the Commission, notify the salesman thereof at the address of such real estate salesman that his license has been delivered or mailed to the Commission. A copy of such communication to the real estate salesman shall accompany the license when mailed or delivered to the Commission. It shall be unlawful for any real estate salesman to perform any of the acts contemplated by this Act, either directly or indirectly, under authority of said license from and after the date of receipt of said license from said dealer by the Commission; provided, that another license shall not be issued to such real estate salesman until he shall return his former pocket card to the Commission or shall satisfactorily account to the Commission for the same; provided further, that not more than one license shall be issued to any real estate salesman for the same period of time. The Commission shall issue a new license to said salesman upon the filing of an application for a transfer and the payment of a transfer fee of One (\$1.00) Dollar. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

#### **Hearing in case of refusal to license**

Sec. 10. If the Commission declines or fails to license an applicant, it shall immediately give notice of the fact to the applicant; and upon request from such applicant, filed within ten days after the receipt of such notice, shall fix a time and place for hearing, of which ten days notice shall be given to such applicant, and to other persons interested or protesting, to offer evidence relating to the real estate dealer's application. In such case the Commission shall fix the time of such hearing on a date within thirty days from receipt of the request for the particular hearing, provided the time of hearing may be continued from time to time on consent of the applicant. If satisfied as aforesaid as a result of such hearing, the Commission shall thereupon license the real estate dealer. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

#### **Grounds for suspending, revoking or refusing to renew license**

Sec. 11. The Commission may upon its own motion, and shall upon the verified complaint in writing of any person, investigate the actions of any real estate salesman or real estate dealer or any person who shall assume to act in either such capacity within this State, and may suspend or revoke or refuse to renew any license at any time where the real estate salesman or real estate dealer, in performing or attempting to perform any act as a real estate dealer or real estate salesman, or in any transaction involving the leasing or sale of an interest in real estate, is guilty of:

- (1) Knowingly making any substantial misrepresentation; or
- (2) Making any false promises with intent to influence, persuade, or induce; or

(3) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents or salesmen, or advertising, or otherwise; or

(4) Acting for more than one party in transaction without the knowledge or consent of all parties thereto; or

(5) Failure within a reasonable time to account for or to remit any moneys coming into his possession which belong to others;

(6) Any other conduct, whether of the same or a different character than hereinabove specified, which constitutes dishonest dealings.

The Commission may also suspend or revoke or refuse to renew the license of any licensee who at any time has:

(1) Procured a license under this Act for himself or any salesman by fraud, misrepresentation, or deceit; or

(2) Has been convicted of a felony, knowledge of which the Commission did not have at the time of last issuing a license to such licensee; or

(3) Wilfully disregarded or violated any of the provisions of the law; or

(4) Demanded from an owner a commission to which he is not justly entitled; or

(5) Paid commissions or fees to, or divided commissions or fees with, anyone not licensed as a real estate dealer or salesman; or

(6) Used any trade name or insignia of membership in any real estate organization of which he is not a member; or

(7) Accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal; or

(8) Solicited, sold, or offered for sale real property by offering "free lots" or conducting lotteries for the purpose of influencing a purchaser or prospective purchaser of real property; or

(9) Acted in the dual capacity of broker and undisclosed principal in any transaction; or

(10) Guaranteed, authorized or permitted any person to guarantee future profits which may result from the resale of real property; or

(11) Placed a sign on any property offering it for sale or for rent without the written consent of the owner or his authorized agent; or

(12) Induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu thereof a new contract with another principal; or

(13) Negotiated the sale, exchange or lease of any real property directly with an owner or lessor, knowing that such owner or lessor had a written outstanding contract granting exclusive agency in connection with such property with another real estate broker; or

(14) Offered real property for sale or for lease without the knowledge and consent of the owner or his authorized agent, or any terms other than those authorized by the owner or his authorized agent; or

(15) Published advertising whether printed, radio, display, or of any other nature which was misleading, or inaccurate in any material policies, or services of the business conducted; or

(16) Knowingly withheld from or inserted in any statement of account or invoice, any statement that made it inaccurate in any material particular; or

(17) Published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harassing competitors or intimidating their customers.

"This Section of this Act shall not be construed to relieve any person or company from civil liability or from criminal prosecution under this Act or under the laws of this State. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Cancellation on conviction of felony; conviction or adjudication of  
unlawful practice of law**

Sec. 11a. The license of any licensee, under any of the provisions of this Act, shall be cancelled by the Commission, upon proof showing that the licensee has been: (a) convicted of a felony under the laws of this State or of the United States; (b) convicted of unlawfully practicing law under the laws of this State in a criminal proceeding; (c) adjudged in a civil proceeding to have unlawfully practiced law in this State. Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Cancellation for unlawfully practicing law; complaint, notice and hearing**

Sec. 11b. The license of any licensee licensed under any provisions of this Act shall be cancelled by the Commission upon proof that the licensee has engaged in, been guilty of, or committed acts constituting the unlawful practice of law, as defined by Chapter 238, Acts of the 43rd Legislature of this State,<sup>1</sup> or who, not being licensed and authorized to practice law in this State, for a consideration, reward, pecuniary benefit, present or anticipated, direct or indirect, or in connection with or as a part of his employment, agency, or fiduciary relation, as such licensee, draws any deed, note, deed of trust, will, or other written instrument that may transfer or in anywise affect the title or interest in land, or advises or counsels any person as to the validity or legal sufficiency of any such instrument above mentioned, or as to the validity of the title of real estate.

Upon complaint by affidavit of any credible person that any licensee under the provisions of this Act has been guilty of, or has committed any of the acts mentioned in this section, the Commission shall notify the licensee of the filing of such complaint and the date a hearing will be had thereon. After hearing, the Commission shall enter such order as to it appears proper under the facts presented. Either party may appeal from that decision to any District Court of the county where such licensee resides, where a trial de novo shall be had under the rules of procedure governing civil cases in the District Courts. Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

<sup>1</sup> Vernon's Ann.P.C. art. 430a.

**Notice and hearing**

Sec. 12. The Commission shall, before suspending or revoking any license, notify in writing the licensee of any charges made in order to afford such licensee an opportunity to be heard, which notification shall be given at least ten days prior to the date set for the hearing. The Commission shall prescribe the time and place of the hearing. The Commission shall have no authority to promulgate rules or regulations which are not definitely set forth in this Act. Such written notice may be served by mailing same by registered mail to the last known business address of such licensee. If such licensee be a salesman, the Commission shall also notify the real estate dealer employing him, specifying the charges made against such real estate salesman by sending a notice thereof by registered mail to the real estate dealer's last known address. At such hearing, or at any other provided for in this Act, such licensee, any and all persons complaining against him, as well as any other witness whose testimony is relied upon to substantiate the charges made, shall be entitled to be present. He shall also be entitled to present evidence, oral and written, as he may see fit, and as may be pertinent to the inquiry. The said hearing may be held by the Commission, and the said hearing shall be held, if the applicant or licensee so desires, within the county where the applicant or licensee has his principal place of business. In such hearing all witnesses

shall be duly sworn by the person herein authorized to preside, and stenographic notes of the proceedings shall be taken and filed as part of the records in the case. Any party to the proceedings desiring it shall be furnished with a copy of the stenographic notes upon the payment to the Commission of a fee not to exceed twenty-five (25¢) cents per page. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Allegation and proof of license in suit for compensation**

Sec. 13. No person or company engaged in the business of acting in the capacity of a real estate salesman within this State shall bring or maintain any action in the courts of this State for the collection of compensation for the performance of any of the acts mentioned in Section 2, Subdivision (a) hereof, without alleging and proving that such person or company was a duly licensed real estate dealer or salesman at the time the alleged cause of action arose. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Evidence**

Sec. 14. (a) The Commission may require by subpoena or summons issued by the Commission, or any person duly authorized to act for the Commission, addressed to the sheriff or any constable, the attendance and testimony of witnesses and the production of any books, accounts, records, papers and correspondence (except such books of account as are necessary to the continued conduct of the business, which books the Commission shall have the right to examine or cause to be examined at the office of the concern, and to require copies of such portion thereof as may be deemed necessary) touching such matter in question, which copies shall be verified by affidavit of an officer of such concern and shall be admissible in evidence as provided in Section 19 hereof, relating to any matter which the Commission has authority by this Act to consider or investigate; and for this purpose the Commission, or any person duly authorized by the Commission may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence. In case of disobedience of any subpoena or of the contumacy of any witness appearing before the Commission, the Commission or the person duly authorized to act for it may invoke the aid of the District Court within whose jurisdiction any witness may be found and such court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence or produce books, accounts, records, papers, and correspondence touching the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) The Commission, or any person duly authorized by the Commission, may in any investigation cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed for depositions in civil actions under the laws of Texas. Each witness required to attend any hearing provided for in this Act shall receive for each day's attendance the sum of Two (\$2.00) Dollars and shall receive in addition the sum of five (5¢) cents for each mile travelled by such witness by the usual route going to and returning from the place where his presence is required. All disbursements made in the payments of such fees shall be included in and paid in the same manner as is provided for the payment of other expenses incident to the administration and enforcement of this Act, as hereinbefore provided. The fee for serving the subpoena shall be the same as that paid the sheriff for similar services. The fees, expenses, and costs incurred at or in connection with any hearing may be imposed by the Commission upon any party to the record or may be divided between any and all parties to the record in such proportions as

the Commission may determine. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Remedy of persons aggrieved by decision of Commission**

Sec. 15. (a) Any real estate dealer, real estate salesman, owner, or subdivider aggrieved by any decision of the Commission may file within thirty days thereafter in the District Court of the county in which he resides, or in the District Court in the county where his principal place of business is situated, a petition against the Commission officially as defendant, alleging therein in brief detail the action and decision complained of and for an order directing the Commission to license the applicant or grant an owner or subdivider a permit as the case may be. Upon service of the summons upon the Commission, returnable within ten days from its date, the Commission shall on or before the return day file an answer. The case shall be tried in the District Court de novo, upon its merits, and it shall take a preponderance of the evidence offered before said District Court for the court to enter a judgment. The substantial evidence rule shall not be used, and the right of trial by jury shall be had in all cases when called for.

(b) The District Courts may, upon application of either party and upon due notice given, advance the case on the docket. From the decision of the District Court, an appeal may be taken to the Court of Civil Appeals by either party, as in other cases, and no bond shall be required of the Commission. A judgment in favor of the defendant shall not bar after one year a new application by the plaintiff for a license, nor shall a judgment in favor of the plaintiff prevent the Commission from thereafter revoking or refusing to license such person for any proper cause which may thereafter accrue or be discovered. The court shall have full power to dispose of all costs. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Fees**

Sec. 16. The Commission shall charge and collect the following fees and shall duly pay all fees received into the State Treasury.

(a) A fee of Ten (\$10.00) Dollars for the filing of any original or renewal application of a real estate dealer, which fee shall include the cost of the issuance of a license if any should be issued;

(b) A fee of Ten (\$10.00) Dollars for the filing of any original or renewal application of a real estate dealer, which fee shall include the cost of the license, who is a member of a partnership or association, or an officer of a corporation licensed under the provisions of this Act, other than the member of the partnership or association or the officer of the corporation named in the license issued to such partnership, association or corporation.

(c) A fee of Five (\$5.00) Dollars for the filing of any original or renewal application of a real estate salesman, which fee shall include the cost of the issuance of the license if any should be issued;

(d) A fee of One (\$1.00) Dollar for each duplicate license where the original license is lost or destroyed and an affidavit made thereof, and where a duplicate is required for a branch office in this State;

(e) A fee of One (\$1.00) Dollar for each duplicate of transfer of salesman's license. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Period of license; renewal**

Sec. 17. All licenses issued under the provisions of this Act shall expire on December 31st of each year at midnight, and application for the

renewal thereof shall be made in such form as the Commission shall prescribe. Applications for renewal of said licenses may be made between the 15th day of November and the 31st day of December. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

#### **Payment of moneys into State Treasury**

Sec. 18. Upon and after the effective date of this Act, all moneys derived from fees, assessments, or charges under this Act, shall be paid by the Commission into the State Treasury for safekeeping, and shall by the State Treasurer be placed in a separate fund to be available for the use of the Commission in the administration of the Act upon requisition of the Commission. All such moneys so paid into the State Treasury are hereby specifically appropriated to the Commission for the purpose of paying the salaries and expenses of all persons employed or appointed as provided herein for the administration of this Act, and all other expenses necessary and proper for the administration of this Act, including equipment and maintenance of any supplies for such offices or quarters as the Commission may occupy, and necessary traveling expenses for the Commission or persons authorized to act for it when performing duties hereunder at the request of the Commission. At the end of the calendar year, any unused portion of said funds in said special account shall be set over and paid into the General Revenue Fund. The Comptroller shall, upon requisition of the Commission, from time to time draw warrants upon the State Treasurer for the amount specified in such requisition, not exceeding however, the amount in such fund at the time of making any requisition; provided, however, that all moneys expended in the administration of this Act shall be specified and determined by itemized appropriation in the General Departmental Appropriation Bill for the Texas Real Estate Commission, and not otherwise. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

#### **Copies of papers and documents as evidence**

Sec. 19. Copies of all papers, instruments, or documents filed in the office of the Commission certified by the Administrator or the Chairman of the Commission under the Seal of the State of Texas, shall be admitted to be read in evidence in all courts of law and elsewhere in this State in full cases where the original would be admitted in evidence; provided that in any proceeding in the court having jurisdiction, the court may on cause shown require the production of the originals. In any prosecution, action, suit or proceeding before any of the several courts of this State, based upon or arising out of or under the provisions of this Act, a certificate under the Seal of the State duly signed by the Commission showing compliance or non-compliance with the provisions of this Act by any real estate dealer or salesman, shall constitute prima facie evidence of such compliance or non-compliance with the provisions of this Act, as the case may be, and shall be admissible in evidence in any action at law or in equity to enforce the provisions of this Act. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

#### **Dividing commissions with others**

Sec. 20. It shall be unlawful for any real estate dealer or real estate salesman to offer, promise, allow, give or pay directly or indirectly any part or share of his commission or compensation arising or accruing from any real estate transaction, to any person who is not a licensed dealer or salesman, in consideration of service performed or to be performed by such unlicensed person, and no real estate salesman shall be employed by or accept compensation from any person other than the dealer

under whom he is at the time licensed; and it shall be unlawful for any licensed real estate salesman to pay a commission to any person except through the dealer under whom he is at the time licensed. Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Violation of act**

Sec. 21. (a) Any person, or agent, officer, or employee of any company, acting as a real estate dealer or real estate salesman within the meaning of this Act, without first having been licensed by the Commission who knowingly authorizes, directs, or aids in the publication, advertisement, distribution, or circulation of any false statement or representation concerning any land or subdivision offered for sale or lease, and every person who with knowledge that any advertisement, pamphlet, prospectus, or letter concerning any land or subdivision contains any written statement that is false or fraudulent issues, circulates, publishes, or distributes the same, or shall cause the same to be issued, circulated, published, or distributed, or who, in any other respect, wilfully violates or fails to comply with any provisions of this Act, or who in any other respect wilfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand, or requirement of the Commission under this Act as herein provided, shall upon conviction therefor be sentenced to pay a fine of not more than Five Hundred (\$500.00) Dollars, or imprisonment in the county jail for not more than one year, or both such fine and imprisonment.

(b) Whenever in the judgment of the Administrator any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, the County Attorney or District Attorney, in the county wherein such violation has occurred or is about to occur, or in the county of the defendant's residence, or the Attorney General, may maintain an action in the name of the State of Texas in the District Court of such county to abate and temporarily and permanently enjoin such acts and practices and to enforce compliance with this Act; such proceedings shall be guided by the rules of other injunction proceedings. The plaintiff shall not be required to give any bond nor shall any court costs be adjudged against the plaintiff.

(c) This Act shall not apply to the sale, lease or transfer of any property when such sale, lease or transfer is made by the owner, or one of the owners, or the attorney for said owner or owners.

(d) This Act shall not apply to the sale, lease or transfer of any property when such sale, lease or transfer is made by a duly appointed and qualified trustee or other fiduciary agent. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

**Written agreement required; no action otherwise**

Sec. 22. No action shall be brought in any court in this State for the recovery of any commission for the sale or purchase of real estate unless the promise or agreement upon which action shall be brought, or some memorandum thereof, shall be in writing and signed by the party to be charged therewith or by some person by him thereunder lawfully authorized. This provision shall not apply to any action for commissions pending in any court in this State on September 20, 1939. As amended Acts 1949, 51st Leg., p. 304, ch. 149, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

Sections 2 and 3 of the amendatory Act of 1949, read as follows:

"Sec. 2. Immediately upon this Act becoming effective, the Secretary of State shall turn over and deliver to the Commis-

sion all records, equipment, materials, supplies, and each, every, and all things now held by it and pertaining to this Act and to 'The Real Estate Dealers License Act,' obtaining the receipt of the Commission or its administrator therefor. All licenses heretofore issued by the Administrator of

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

the Securities Division of the Secretary of State's Office, if in good standing, shall continue in force and effect, the same as though they had been issued by the Texas Real Estate Commission; but in no event shall they be in effect longer than the time prescribed by law at the date of their issuance. All process against or for the Secretary of State of the Administrator of the Securities Division of the Office of the Secretary of State, shall be as valid and binding as though it had been issued for or against such last named Commission and Administrator. All orders of the Secretary of State or his Administrator (issued under House Bill No. 17, Acts of the Regular Session of the 46th Legislature) shall continue in effect until they expire by their terms or are altered or set aside by the Commission. All notices or other process, all applications or other instruments heretofore filed by or with the Secretary of State or the Administrator of the Securities Division of the Office of the Secretary of State (under House Bill No. 17, Acts of the Regular Session of the 46th Legislature) shall be considered as having been filed by or with the Texas Real Estate Commission and its Administrator.

"Should there be any suits pending by or against the Secretary of State or the Administrator of the Securities Division of the Office of the Secretary of State, by virtue of and under House Bill No. 17, Acts of the Regular Session of the 46th Legislature,

the Texas Real Estate Commission or its Administrator shall be substituted as parties in lieu of the Secretary of State or the Administrator of the Securities Division. It is the intent of this Act and is hereby provided that the Texas Real Estate Commission and its Administrator shall, from the effective date of this Act, stand in lieu of and succeed to all the rights, powers, duties and obligations heretofore vested in the Secretary of State and the Administrator of the Securities Division, by virtue of House Bill No. 17, Acts of the Regular Session of the 46th Legislature; but nothing herein shall relieve the Secretary of State or the Administrator of the Securities Division of any personal liability or responsibility to account for their acts in connection with such House Bill No. 17 supra, nor make the Commission or its Administrator personally liable therefor.

"Sec. 3. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid for any reason."



**TITLE 116—ROADS, BRIDGES, AND FERRIES****CHAPTER ONE—STATE HIGHWAYS****Art. 6674a. Definition of terms**

Construction of farm to market roads  
by State Highway Department, see art.  
7083a.

**Art. 6674q—14. Road district bonds in counties of 19,000 to 19,500;  
participation in State Highway Fund**

All bonds which have been heretofore issued and sold by road districts in counties with a population of not less than nineteen thousand (19,000) and not more than nineteen thousand five hundred (19,500), according to the next preceding Federal Census, where the proceeds of the sale of the bonds have been expended in whole or in part upon a highway which was then a part of the designated system of State Highways in Texas, and a part of the proceeds of which has been expended, in whole or in part, upon a highway which has, since the issuance and sale of said bonds, been designated as a part of the State Highway System of Texas, and where such designated parts of the State Highway System bear different highway numbers, or where one designation is numbered and the other un-numbered, shall be entitled to participate in the State Highway Fund, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and any amendments thereto,<sup>1</sup> including the re-enactment and extension thereof under and by virtue of the terms and provisions of House Bill No. 463, enacted by the Legislature of Texas, Forty-fifth Regular Session, 1937.

The Board of County and Road District Indebtedness is directed to audit all expenditures of the aforementioned district, and the assumption herein provided for shall extend only to such bonds, the proceeds of which were expended in the construction of the road which has subsequently been designated a State Highway. Acts 1937, 45th Leg., p. 901, ch. 437, § 1.

<sup>1</sup> Articles 6674q—7, 6674q—8.

**Art. 6674r. Bonds of road districts in certain counties entitled to participate in State Highway Fund under certain conditions**

All bonds which have been heretofore issued and sold by all road districts in counties with a population of not less than twenty-five thousand three hundred forty-four (25,344) and not more than twenty-five thousand four hundred forty-four (25,444) people, according to the last preceding Federal Census, where the proceeds of the sale of the bonds has been expended, in whole or in part, upon a highway which has, since the issuance and sale of said bonds, been temporarily or permanently designated as a part of the State Highway System, shall be entitled to participate in the State Highway Fund, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and any amendments thereto.<sup>1</sup> Acts 1937, 45th Leg., p. 829, ch. 406, § 1.

<sup>1</sup> Articles 6674q—7, 6674q—8.

**Art. 6675a—8b Width of motor vehicles and farm tractor**

No vehicle which has a total outside width, including any load thereon, of more than ninety-six inches, except that the width of a farm

tractor shall not exceed one hundred and eight inches, and excepting further that the limitations as to the size of vehicles shall not apply to implements of husbandry and highway building or maintenance machinery temporarily propelled or moved upon the public highways, shall be permitted to operate upon the highways of this State except under a special permit issued for such movement by the Department. The fee for each such special permit for the movement of overwidth vehicles including any load thereon, shall be in addition to the registration fee required by law. As amended Acts 1949, 51st Leg., p. 376, ch. 200, § 2.

Emergency. Effective May 14, 1949.      non's Ann.P.C. art. 827a and section 4 re-  
 Section 1 of the amendatory act of 1949,      pealed all conflicting laws and parts of  
 amended art. 6701a, section 3 amended Ver-      laws.

**Art. 6687b. Drivers', chauffeurs', and commercial operators' licenses; accident reports**

Suspension of license for violation of law relating to driving on beaches, see *Vernon's Ann.P.C.*, art. 827f.

**Art. 6701a. Permits for heavy trucks on highways**

Sec. 3. Before a permit is issued the applicant for the same shall file with the State Highway Department a bond in amount to be set and approved by the Department, payable to the State Highway Department of Texas and conditioned that the applicant will pay to the State Highway Department any damage that might be sustained to the highway by virtue of the operation of the equipment for which a permit is issued to operate, and venue of any suit for recovery upon said bond may be any court of competent jurisdiction in Travis County. There shall also accompany the application for permit a fee of Five Dollars (\$5) for single trip permits, Ten Dollars (\$10) for time permits not exceeding a period of thirty (30) days; Fifteen Dollars (\$15) for time permits not exceeding a period of sixty (60) days and Twenty Dollars (\$20) for time permits not exceeding a period of ninety (90) days, which fee shall be by the State Highway Department deposited in the Treasury of the State of Texas to the credit of the State Highway Fund. All payments of fees shall be made by cashier or certified check, postal or express money orders. As a further prerequisite to the issuance of any such permits, the equipment to be operated under such permit must have been registered under Acts 1929, Forty-first Legislature, Second Called Session, Chapter 88, as amended (*Vernon's Civil Statutes* 6675a) for maximum gross weight applicable to such vehicle under Section 5, Acts 1929, Forty-first Legislature, Second Called Session, Chapter 42, as amended (*Vernon's Penal Code*, Article 827a), not exceeding forty-eight thousand (48,000) pounds total gross weight. As amended Acts 1949, 51st Leg., p. 376, ch. 200, § 1.

Emergency. Effective May 14, 1949.      *Vernon's Ann.P.C.* art. 827a and section 4  
 Section 2 of the amendatory act of 1949,      repealed all conflicting laws and parts of  
 amended art. 6675a—3b, section 3 amended      laws.

**CHAPTER ONE A—TRAFFIC REGULATIONS**

**Art. 6701d. Uniform Act Regulating Traffic on Highways**

**Limitations as to Trailers**

Sec. 106. (a) No driver of a motor vehicle shall drive upon any highway outside of the limits of an incorporated city or town drawing or having attached thereto more than one vehicle; such vehicle may be a trailer, semi-trailer, pole trailer, or another motor vehicle; provided,

however, that there may be attached to motor vehicles used exclusively in the actual harvesting of lettuce and cabbage, not to exceed two (2) trailers, under the following conditions:

1. The origin of the agricultural product must be a field where the same is grown and its destination must be a packing or processing plant or shed not more than thirty (30) miles distant from such field.

2. The combination of vehicles must be operated only during the period from sunrise to sunset, and at a rate of speed not to exceed twenty-five (25) miles per hour.

3. The agricultural product transported in such trailers must be in bulk or field crates.

4. The width, length, height, and gross weight of each trailer and/or combination of trailers shall conform to the requirements set forth in Article 827a, Revised Penal Code of the State of Texas, and all other laws of this State governing same.

5. No one harvesting trailer shall exceed seventeen (17) feet and nine (9) inches in length.

6. No laborers or 'harvesting hands' shall be carried in or on the trailers while so used.

(b) When one vehicle is towing another the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby and said drawbar or other connection shall not exceed fifteen (15) feet from one vehicle to the other except the connection between any two vehicles transporting poles, pipe, machinery, or other objects of structural nature which cannot readily be dismembered.

(c) When one vehicle is towing another and the connection consists of a chain, rope, or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve (12) inches square. As amended Acts 1949, 51st Leg., p. 1175, ch. 589, § 1.

Emergency. Effective Sept. 1, 1949.

## CHAPTER FOUR—SPECIAL ROAD TAX

### Article 6790. 7042 Election

Special tax for farm-to-market or lateral roads, see art. 7048a.

## CHAPTER FIVE—BRIDGES AND FERRIES

### 1. BRIDGES

#### Art. 6795b—1. Causeways, bridges, and tunnels authorized in Gulf Coast counties of 50,000 or more

**Bonds; charge only on revenues of projects; approval and registration; alternative methods; elections**

Sec. 2. Except as expressly provided in this Section, no bonds authorized hereunder shall ever be a debt of the county issuing them, but shall be solely a charge upon the revenues of the project and shall never be reckoned in determining the powers of the county to issue any bonds for any purpose authorized by law. Each such bond shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Bonds issued hereunder may be presented to the Attorney General for his approval in the same manner and with like effect as is provided for the approval of tax bonds issued by counties. In such case the bonds shall be registered by the State Comptroller as in the case of

other county bonds. But notwithstanding any limitations in this Act or in the law which it amends, any county proceeding hereunder after this amendatory Act becomes effective may issue bonds for such purpose secured by any one of the following methods:

(a) Solely by the pledge of revenues as prescribed hereinabove in this Section and elsewhere in Chapter 304, Acts of the Regular Session of the Fiftieth Legislature<sup>1</sup>; or

(b) A pledge of and payable from either an ad valorem tax levied out of the Road and Bridge Fund Tax authorized for counties under Article 8, Section 9 of the Constitution, or an unlimited ad valorem tax authorized under Article 3, Section 52 of the Constitution and laws enacted pursuant thereto; or

(c) A designated part of the bonds to be secured solely by a pledge of revenues as provided under sub-section (a) and a designated part of the bonds to be secured by pledges of such ad valorem tax as provided under sub-section (b) of this Section; or

(d) A combination of the methods prescribed under sub-sections (a) and (b) wherein all of the bonds are to be supported and secured by such ad valorem tax with the duty imposed on the County to collect tolls for use of the facilities so long as any of the bonds are outstanding so that in the manner to be prescribed in the bond resolution or the trust indenture the amount of the tax to be collected from time to time may be reduced or abated to the extent that the revenues from the operation of the facilities are sufficient to meet the requirements for operation and maintenance and to provide funds for the bonds as prescribed in the indenture.

But no such bonds wholly or partially supported by an ad valorem tax shall be issued unless and until they shall have been authorized at an election at which the question of their issuance shall have been submitted. If the bonds are to be supported by a limited ad valorem tax they must have been authorized by not less than a majority vote at an election called and held substantially in the manner prescribed for the issuance of county bonds in Chapter 1 of Title 22 of the Revised Civil Statutes of Texas as amended. If the bonds are to be supported by an unlimited tax they must have been authorized by not less than a two-thirds majority vote at an election called and held substantially in the manner prescribed for the issuance of unlimited tax county road bonds in Chapter 3 of Title 22 of the Revised Civil Statutes of Texas, as amended. As amended Acts 1949, 51st Leg., p. 219, ch. 122, § 2.

<sup>1</sup> Foll. art. 8197f.

#### **Contract or lease agreement**

Sec. 5a. Any county proceeding hereunder after this amendment becomes effective may, within the discretion of the Commissioners Court, to the extent prescribed by the bond resolution or the trust indenture or pursuant to the provisions thereof make a contract or lease agreement under which the facilities may be operated for a period fixed therein not extending beyond the date of the maturity of the last maturing bond, by another agency, person, firm, or corporation, provided that nothing in such contract or lease shall be so interpreted as to interfere with the right of the holders of the bonds or their representatives to require proper operation and maintenance of the facilities and the payments for the benefit of the bonds as prescribed in the bond resolution or in the trust indenture. Added Acts 1949, 51st Leg., p. 219, ch. 122, § 3.

#### **Powers of counties and of State Highway Commission**

Sec. 7. The powers herein granted may be carried out by such counties and the projects may be acquired and operated and tolls and

charges fixed and maintained without the consent, approval, supervision or regulation of any commission, department, bureau, agency, or officer of the State of Texas, provided, however, that nothing in this Section shall be construed to prevent the State Highway Commission from operating and maintaining the project or contributing to the cost of such operation and maintenance under such provisions as may be agreed to by the county which are not inconsistent with the rights of bondholders or the rights of any agency, person, firm or corporation then operating the project under lease or contract with the county. The State Highway Commission shall have authority without further legislative enactment to make such provision for and contributions toward operation and maintenance of the project as it may see fit, and to lease the project under such terms not inconsistent with the provisions of the bond resolution or trust indenture as may be agreed upon with the county, and to declare the project or any part thereof to be a part of the State Highway System and to operate the project or such part thereof as a part of the State Highway System, provided, however, that such declaration may be made and such operation undertaken only to the extent that property and contract rights in the project and in the bonds are not unfavorably affected thereby. When all of the bonds and interest thereon shall have been paid, or a sufficient amount for the payment of all bonds and the interest thereon to maturity shall have been set aside in a trust fund for the benefit of the bondholders and shall continue to be held for that purpose, the project shall become a part of the State Highway System and shall be maintained by the State Highway Commission, free of tolls. As amended Acts 1949, 51st Leg., p. 219, ch. 122, § 4.

#### **Contributions by United States or by state**

Sec. 7(a). The county is hereby authorized to accept from the United States Government or any of its departments or agencies or from the State of Texas or any of its departments or agencies, any contributions or assistance available from such source or sources in connection with the acquisition, construction and operation of such project and to enter into agreements with one or any of them in reference to the acquisition, construction and operation of the project. Added Acts 1949, 51st Leg., p. 219, ch. 122, § 5.

#### **Bonds as legal investments or security**

Sec. 7(b). All bonds issued under this law before and after this amendment shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Added Acts 1949, 51st Leg., p. 219, ch. 122, § 5.

Emergency. Effective May 3, 1949.

Section 1 of the act of 1949 read as follows: "Chapter 304, Acts of the Regular Session of the Fiftieth Legislature, page 514 of the Official Acts (Vernon's Civil

Statutes, Article 6795b—1) hereinafter sometimes referred to as 'said Chapter 304', be amended to the extent provided in this Act."

## TITLE 117—SALARIES

- |  |  |
|--|--|
| <p>Art.<br/>6819a—5. Additional compensation of judges of District Courts and Criminal District Court in counties having eight courts [New].</p> | <p>Art.<br/>6819a—6. Salaries of justices, judges and commissioners of courts [New].</p> |
|--|--|

Art. 6819—3. Additional compensation of judges of district courts in counties of 338,000 to 500,000.

Compensation of judges in counties having eight or more courts, see, also, art. 6819a—5.

Art. 6819a—4. Repealed. Acts 1949, 51st Leg., p. 614, ch. 328, § 2. Eff. 90 days after July 6, 1949, date of adjournment

Art. 6819a—5. Additional compensation of judges of District Courts and Criminal District Court in counties having eight courts

Section 1. In all counties in this State having eight (8) or more District Courts, the Judges of the several District Courts and Criminal District Courts shall each receive annually, payable in monthly installments, the sum of Three Thousand, Nine Hundred Dollars (\$3,900), 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, (as amended by the Acts of 1945, Chapter 268, p. 422, Regular Session Laws of the Forty-ninth Legislature), or Article 5142-A, Section 1-a (same being Section 1-a of the Acts of 1935, Forty-fourth Legislature, Regular Session, Chapter 156, p. 401, or Article 6819a-3, Revised Civil Statutes, same being Chapter 200, p. 271 of the Acts of 1945, Forty-ninth Legislature, Regular Session) in so far as same now apply to counties having eight (8) or more District Courts; providing, however, that the several Judges of the District Courts and Criminal District Courts in said counties shall not receive any salary as provided in Article 5139, Revised Civil Statutes of Texas of 1925, (as amended by the Acts of 1945, Chapter 268, p. 422, Regular Session Laws of the Forty-ninth Legislature), 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, p. 401,) or Article 6819a-3, Revised Civil Statutes, (same being Chapter 200, p. 271 of the Acts of 1945, Forty-ninth Legislature, Regular Session) for any month wherein they shall have received the salary herein provided to be paid out of the General Fund of said counties.

Sec. 3. If any section, subsection, paragraph, sentence, clause or provision of this law be declared unconstitutional or invalid by the Courts, it shall not affect the constitutionality or validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have been passed without such section, or subsection, or clause so declared unconstitutional. Acts 1949, 51st Leg., p. 178, ch. 96.

Emergency. Effective April 29, 1949.

**Art. 6819a—6. Salaries of justices, judges and commissioners of courts****Section 1. From and after August 31, 1949:**

(a) The Justices of the Supreme Court of the State of Texas and the Judges of the Court of Criminal Appeals and Commissioners of the State of Texas shall each be paid an annual salary of Twelve Thousand Dollars (\$12,000);

(b) The Justices of the several Courts of Civil Appeals of the State of Texas shall each be paid an annual salary of Ten Thousand Dollars (\$10,000);

(c) The Judges of the several District Courts of the State of Texas and of the Criminal District Courts of this State shall each be paid an annual salary of Seven Thousand Dollars (\$7,000);

(d) The salaries of all the Justices and Judges in this Section shall be paid in equal monthly installments.

(e) Each District Judge in this State shall be paid an annual salary of Seven Thousand Dollars (\$7,000) from State funds, provided that no District Judge shall receive as supplemental pay thereto from any county funds a sum in excess of Twenty-nine Hundred Dollars (\$2900) per annum for services rendered as a member of a Juvenile Board. Acts 1949, 51st Leg., p. 614, ch. 328, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

Sections 2 and 3 of the act of 1949 read as follows:

"Sec. 2. Senate Bill No. 11, Chapter 42, page 54, Acts of the Fiftieth Legislature [Art. 6819a—4] and all laws and parts of

laws in conflict with this Act, are hereby repealed.

"Sec. 3. If any Section, subsection or paragraph of this Act be held invalid or unconstitutional, such invalidity shall not be held to affect the validity or constitutionality of any other Section, subsection, or paragraph of this Act."

**Art. 6820. Judicial district expenses**

All District Judges and District Attorneys when engaged in the discharge of their official duties in any county in this State other than the county of their residence, shall be allowed their actual and necessary expenses while actually engaged in the discharge of such duties. Such officers shall also receive the actual and necessary postage, telegraph and telephone expenses incurred by them in the actual discharge of their duties. Such expenses shall be paid by the State upon the sworn and itemized account of each District Judge or Attorney entitled thereto, showing such expenses. In districts containing more than one (1) county, such expenses shall never exceed in any one (1) year One Hundred and Fifty Dollars (\$150) for each county in the district; provided that no District Judge or Attorney shall receive more than Nine Hundred Dollars (\$900) in any one (1) year under the provisions of this Article. The account for said services shall be recorded in the official minutes of the District Court of the county in which such Judge or Attorney resides, respectively. As amended Acts 1949, 51st Leg., p. 903, ch. 484, § 1.

Emergency. Effective June 30, 1949.

Section 2 of the amendatory act of 1949, provided that all laws and parts of laws in conflict with this Act or any part thereof are repealed in so far as they conflict

with this law or any part thereof; if any part of this Act is declared unconstitutional or invalid, the remaining parts of the Act are to be upheld.

**Art. 6823. Traveling expenses**

The traveling and other necessary expenses incurred by the various officers, assistants, deputies, clerks, and other employees in the various departments, institutions, boards, commissions or other subdivisions of the State Government, in the active discharge of their duties shall be such as are specifically fixed and appropriated by the Legislature in the

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

general or supplemental appropriation bills providing for the expenses of the State Government from year to year. When appropriations for traveling expenses are made any allowances or payments to officials or employees for the use of privately owned automobiles shall be on a basis of actual mileage traveled for each trip or all trips covered by the expense accounts submitted for payment or allowance from such appropriations, and such payment or allowance shall be made at a rate set by the Legislature for each mile actually traveled, and no additional expense incident to the operations of such automobile shall be allowed. As amended Acts 1949, 51st Leg., p. 913, ch. 491, § 1.

Emergency. Effective June 29, 1949.

#### Art. 6824. 7086, 4853 Change in salary

Acts 1949, 51st Leg., p. 75, ch. 43, §§ 1, 2, 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, 1949, and ending August 31, 1951, 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 specifically declared to be one of the intents hereof that any and all laws authorizing payment of supplemental salaries from court receipts and fees to clerks and other employees of the Courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals are suspended insofar as they are in conflict with this Act."

Section 3 declared an emergency.



## TITLE 118—SEAWALLS

Art.

6839e. Validation of bonds and proceedings  
for renewal or refunding [New].**Article 6830. 5585 Commissioners' court may construct levees**

## SEA WALLS

Laws relating to the construction and maintenance of sea walls, breakwaters and shore protection and making donation of taxes have been enacted as follows:

Aransas Pass, City of. Acts 1949, 51st Leg., p. 572, ch. 309.

Corpus Christi Sea Wall. Acts 1949, 51st Leg., p. 572, ch. 309.

Freeport, Town of. Acts 1949, 51st Leg., p. 572, ch. 309.

Matagorda County, etc. Acts 1949, 51st Leg., p. 572, ch. 309.

Port Arthur, City of. Acts 1949, 51st Leg., p. 572, ch. 309.

**Art. 6839e. Validation of bonds and proceedings for renewal or refunding**

Section 1. Any and all bonds of any county or city bordering on the coast of the Gulf of Mexico heretofore issued to construct a seawall and breakwater under Title 118 of the Texas Civil Statutes or any special or local Act of the Legislature, and all renewals and refundings thereof issued before the effective date of this Act, whether of the whole or part of the bonds outstanding of a single or of two or more issues, which bonds or renewals or refundings were originally acquired from the issuer by the United States government or any of its agencies, are validated and declared to be negotiable instruments, despite any irregularity or lack of statutory authority in their authorization, issuance or delivery.

Sec. 2. Any and all proceedings had before the effective date of this Act for renewal or refunding of any of such bonds, including without limitation provisions for their security and payment, and the pledging of operating revenues therefor, are validated, and the refunding bonds are declared to be, when issued, valid negotiable instruments, despite any irregularity of such proceedings or lack of statutory authority therefor.

Sec. 3. Any and all such bonds and all renewals and refundings thereof, whether issued before or after the effective date of this Act, may be renewed or refunded from time to time in accordance with the laws applicable to the issuance of seawall bonds.

Sec. 4. This Act shall not have the effect of validating any securities the validity of which is being attacked directly in litigation instituted prior to and pending at the time this Act becomes effective.

Sec. 5. The invalidity of any provision of this Act under any circumstances shall not affect the validity of such provision under any other circumstance nor the validity of any other provision. Acts 1949, 51st Leg., p. 218, ch. 121.

Emergency. Effective May 3, 1949.

## TITLE 120—SHERIFFS AND CONSTABLES

### 2. CONSTABLES

**Art.**

6889b. Automobile allowance in counties of  
 220,000 to 350,000 [New].

### 2. CONSTABLES

**Art. 6889b. Automobile allowance in counties of 220,000 to 350,000**

In addition to the salaries now provided by law, for Constables and Deputy Constables, in counties having a population of not less than two hundred and twenty thousand (220,000) nor more than three hundred and fifty thousand (350,000), according to the last preceding or any future Federal Census, and having a Justice Precinct or precincts wherein is located a city or town of not less than one hundred and seventy-five thousand (175,000) nor more than two hundred and sixty-five thousand (265,000) population, according to the last preceding or any future Federal Census, and where the office of the Constable of such precinct or precincts is located in the Courthouse of such counties, there shall be paid to each regularly elected or appointed Constable, and to each regularly appointed Deputy Constable, the sum of Fifty Dollars (\$50) monthly to be paid by warrant drawn on the officers' salary fund or general fund, to compensate said Constable and Deputies in the official discharge of their duties, said allowances to be paid upon the certificate of such Constables, that the automobiles of such Constables and Deputies were in official use. Acts 1949, 51st Leg., p. 519, ch. 284, § 1.

*Emergency. Effective May 27, 1949.*

**Title of Act:**

An Act providing for the compensation of Constables and Deputy Constables in certain counties for the repair and maintenance

of privately owned automobiles used by such Constables and their Deputies in the discharge of official duties; and declaring an emergency. Acts 1949, 51st Leg., p. 519, ch. 284.

## TITLE 121—STOCK LAWS

## CHAPTER SIX—STOCK RUNNING AT LARGE

## Article 6954. 7235 Petition

Upon the written petition of one hundred (100) freeholders of any of the following Counties: Anderson, Angelina, Aransas, Armstrong, Atascosa, Austin, Archer, Bastrop, Baylor, Bandera, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Brewster, Briscoe, Brown, Brooks, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Castro, Chambers, Cass, Clay, Cherokee, Childress, Collingsworth, Coleman, Collin, Colorado, Cooke, Comanche, Concho, Crockett, Coryell, Cottle, Crosby, Cochran, Crane, Dallas, Dawson, Deaf Smith, Delta, Dallam, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, Erath, El Paso, Falls, Fannin, Fayette, Floyd, Foard, Fort Bend, Franklin, Fisher, Freestone, Frio, Gaines, Galveston, Goliad, Gray, Gregg, Guadalupe, Garza, Glasscock, Gillespie, Gonzales, Grimes, Grayson, Hale, Hamilton, Hansford, Harris, Harrison, Hays, Haskell, Hall, Harde- man, Hartley, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Howard, Hockley, Hudspeth, Hunt, Hutchinson, Irion, Jeff Davis, Jim Hogg, Jim Wells, Jack, Jackson, Jones, Jefferson, Johnson, Karnes, Kaufman, Kent, Kimble, Knox, Kerr, Kendall, Kleberg, Lamar, Lampasas, Lavaca, Lamb, Lee, Leon, Limestone, Lynn, Lipscomb, Llano, Live Oak, Liberty, Lubbock, Madison, Mason, McLennan, Matagorda, McCulloch, Menard, Moore, Marion, Martin, Maverick, Medina, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Navarro, Nacogdoches, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Parker, Parmer, Pecos, Potter, Panola, Polk, Raines, Randall, Red River, Reagan, Reeves, Real, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Patricio, San Saba, San Jacinto, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Stephens, Sterling, Starr, Stonewall, Sutton, Swisher, Tarrant, Tom Green, Taylor, Terrell, Throckmorton, Titus, Travis, Upshur, Uvalde, Victoria, Val Verde, Van Zandt, Washington, Walker, Waller, Webb, Williamson, Wilson, Wise, Ward, Wharton, Wood, Wheeler, Winkler, Wichita, Wilbarger, Young, Zapata, and Zavala, or upon the petition of fifty (50) freeholders of any such subdivision of a County as may be described in the petition, and defined by the Commissioners Court of any of the above-named Counties, Commissioners Court of said County shall order an election to be held in such County or such subdivision of a County as may 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 County or subdivision of a County as may be described in the petition and defined by the Commissioners Court to determine whether horses, mules, jacks, jennets, or cattle shall be permitted to run at large in such County or such subdivision of a County as may be described in the petition and defined by the Commissioners Court. As amended Acts 1949, 51st Leg., p. 726, ch. 390, § 1; Acts 1949, 51st Leg., p. 907, ch. 486, § 1.

Emergency. Effective June 29, 1949.

## TITLE 122—TAXATION

### CHAPTER ONE—LEVY OF TAXES AND OCCUPATION TAXES

<p>Art. 7047k—1. Additional tax on motor vehicle sales [New].</p> <p>7047n. Occupation tax on sulphur producers [New].</p> <p>7047o. Carbon black producers, occupation tax on [New].</p>	<p>Art. 7048a. Additional county tax levy for flood control and roads; discontinuance of state levy [New].</p> <p>7057e. General provisions as to certain occupation and other taxes [New].</p>
---	---

#### Art. 7041. 7349 Board constituted

State ad valorem tax discontinued as of January 1, 1951, with exception of cases of tax donations, see art. 7048a.

#### Art. 7043. 7351 Ascertaining tax rate; formula

Formula prescribed in this article not to apply after Jan. 1, 1951, see art. 7048a.

#### Art. 7047. 7355, 5049 Occupation taxes

##### 41.a. Cement Distributors.

(a-1). In addition to all other taxes, there is hereby imposed a tax of ten per cent (10%) of two and one-half cents (2½¢) on the one hundred (100) pounds, or fractional part thereof, of cement on every person in this State manufacturing or producing in and/or importing cement into this State, and who thereafter distributes, sells or uses; provided, however, no tax shall be paid except on one sale, distribution or use. The person liable for said tax is hereby defined as a "distributor".

This tax is levied for the period beginning with the effective date of this subsection and terminating at midnight August 31, 1951.

Reports shall be made and the tax shall be paid as hereinafter provided in this subdivision 41; but a report shall be made for the fractional quarter of July and August, 1951, and the tax herein levied for such months shall be paid on the basis of such report. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XII, § 1.

Section 2 of Art. XII of the act of 1950 read as follows: "Section 1 of this Article shall become effective on the first day of the first month after the effective date [Feb. 28, 1950] of this Act."

46.

(f) The term "carbon black" as herein used includes all black pigment produced in whole or in part from natural gas, casinghead gas or residue gas by the impinging of a flame upon a channel disk or plate, or by any other method, and the tax herein imposed shall reach all products produced in such manners. As amended Acts 1949, 51st Leg., p. 1373, ch. 624, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 7047a—3. Amount of tax

Every "Owner" as that term is hereinabove defined, who owns, controls, possesses, exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machines" as that term is defined herein, shall pay and there is hereby levied on every coin-operated

machine as defined in this Act,<sup>1</sup> except such as are exempted herein, an annual occupation tax determined by the following schedule:

Series 1. (a) For each "merchandise or music coin-operated machine" as that term is hereinabove defined, except such machines vending or dispensing refrigerated milk and/or ice cream, a fee of Twenty (\$20.00) Dollars, where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of Five (5¢) Cents or represents a value in excess of Five (5¢) Cents; and for each coin-operated machine vending or dispensing refrigerated milk and/or ice cream, a fee of Five (\$5.00) Dollars, where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of Five (5¢) Cents, or represents a value in excess of Five (5¢) Cents; and

“(b) A fee of Two Dollars and Fifty Cents (\$2.50) where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of One (1¢) Cent, and not exceeding Five (5¢) Cents, or represents a value in excess of One (1¢) Cent and not exceeding Five (5¢) Cents.

Series 2. (a) For each "skill or pleasure coin-operated machine" as that term is hereinabove defined, a fee of Sixty (\$60.00) Dollars, where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of Five (5¢) Cents, or represents a value in excess of Five (5¢) Cents; and

(b) A fee of Thirty (\$30.00) Dollars where the coin, fee or token used, or which may be used, in the operation thereof, is one of the value in excess of One (1¢) Cent and not exceeding Five (5¢) Cents or represents a value in excess of One (1¢) Cent and not exceeding Five (5¢) Cents

Provided that nothing herein shall prevent the "operator" of such machines from paying the tax levied in this Act for the account of the "Owner"; but the payment of such tax by such operator or other person shall not relieve the Owner from the responsibility of complying with all provisions of this Act including the keeping of the records required herein. As amended Acts 1949, 51st Leg., p. 1181, ch. 595, § 1.

<sup>1</sup> Article 7047a—2 et seq.

Emergency. Effective July 25, 1949.

Section 2 of the amendatory Act of 1949 repealed all conflicting laws and parts of laws

Section 3 provided that if any section, sub-section, paragraph, sentence, clause, phrase, or word of this Act, or the appli-

cation thereof to any person or circumstance, is held invalid, such holding shall not affect the validity of the remaining portions of the Act; and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity.

## Art. 7047b. Tax on producers of natural gas

### Additional occupation tax

Sec. 1½. (1) In addition to all other taxes, 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 ten per cent (10%) of five and two-tenths per cent (5.2%) 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 ten per cent (10%) of eleven-one hundred fiftieths (11/150) of one cent (1¢) 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 Article I of House Bill No. 3, Acts, First Called Session, Fifty-first Legislature.<sup>1</sup>

(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 pay-

ment 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.

(9) This tax is levied on gas produced after the effective date of this Section and prior to September 1, 1951, and not thereafter. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. II, § 1.

<sup>1</sup> Art. 7057a.

Section 2 of Art. II of the act of 1950 read as follows: "Section 1 of this Article shall become effective on the first day of the first month after the effective date [Feb. 28, 1950] of this Act."

#### Definitions

##### Sec. 2.

(12) For the purposes of this Article, the term "cubic foot of gas" or "standard cubic foot of gas" means the volume of gas (including natural and casinghead) contained in one cubic foot of space at a standard pressure base and at a standard temperature base. The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be 60 degrees Fahrenheit. Whenever the conditions of pressure and temperature differ from the above standard, conversion of the volume from these conditions to the standard conditions shall be made in accordance with the Ideal Gas Laws, corrected for deviation. As amended Acts 1949, 51st Leg., p. 945, ch. 519, § 4.

Effective 90 days after July 6, 1949, date of adjournment.

Sections 1, 2, 4a, 4b, 5 and 6 of the amendatory Act of 1949 are published as art. 6066b, section 3 amended art. 6008.

Acts 1949, 51st Leg., p. 1173, ch. 587, makes an appropriation for the reimbursement of owners of unused note stamps and unpaid warrants therefor, and provides that claims for reimbursement not presented prior to Aug. 31, 1951 shall be barred.

#### Art. 7047c—1. Cigarette Tax

##### Amount of tax; stamps; disposition of revenues

##### Text of Section 2 until Aug. 31, 1957

Sec. 2. A tax of Two Dollars (\$2) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Four Dollars and ten cents (\$4.10) per thousand on those weighing more than three (3) pounds per thousand is hereby imposed on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The said tax shall be paid only once by the person making the "first sale" in this State and shall become due and payable as soon as such cigarettes are subject to a first sale in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a "first sale" of same. No person, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual packages or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered

for sale. Payment of such tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to each individual package of cigarettes covering the tax thereon as imposed by this Act; provided that such stamps may be purchased and affixed to such individual packages of cigarettes by a manufacturer of cigarettes outside this State, in which case no further payment of tax shall be required.

Provided, that the tax imposed shall be in lieu of any other occupation or excise tax imposed by the State or any political subdivision thereof, on cigarettes.

Cigarette stamps shall be sold by the Treasurer in unbroken sheets of one hundred (100) stamps only and shall be purchased from and sold only by said Treasurer, except as hereinafter provided. When the Comptroller deems it proper to accept the compromise provided for in Section 22, and the offender does not possess sufficient unused stamps to cover his unstamped stock of cigarettes, then and in that event the offender may purchase the required stamps from any distributor through a requisition from the Comptroller in order that his unstamped stock of cigarettes may be stamped immediately and under the direction of the Comptroller and the Comptroller shall have the authority to issue such requisition which shall be made in triplicate on a form prescribed by the Comptroller with the printed words "Original," "Duplicate," and "Triplicate," on the respective sheets thereof. The original requisition shall be kept by the Comptroller and the duplicate and triplicate shall be delivered to the purchaser and seller of said stamps, respectively, who shall hold such copies of requisition at all times open to the inspection of the Comptroller and the Attorney General for a period of two (2) years. The Comptroller shall have the power and authority in the enforcement of this Act to recall any stamps which have been sold by said Treasurer and which have not been used and it shall be the duty of said Treasurer upon receipt of such recalled stamps to issue stamps of other serial numbers therefor. The purchaser of any stamps shall be required to surrender any unused stamps for exchange upon demand of said Comptroller. As amended Acts 1950, 51st Leg., 1st C.S., p. 1, ch. 1, § 1(a).

Emergency. Effective Feb. 28, 1950.

#### Text of Section 2 effective Sept. 1, 1957

Sec. 2. A tax of One Dollar and fifty cents (\$1.50) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Three Dollars and sixty cents (\$3.60) per thousand on those weighing more than three (3) pounds per thousand is hereby imposed on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The said tax shall be paid only once by the person making the "first sale" in this State and shall become due and payable as soon as such cigarettes are subject to a first sale in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a "first sale" of same. No person, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual packages or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale. Payment of such tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to each individual package of cigarettes covering the tax thereon as imposed by this Act; provided that such stamps may be purchased and affixed to such individual packages of cigarettes by a manufacturer of cigarettes outside this State, in which case no further payment of tax shall be required.



Provided, that the tax imposed shall be in lieu of any other occupation or excise tax imposed by the State or any political subdivision thereof, on cigarettes.

Cigarette stamps shall be sold by the Treasurer in unbroken sheets of one hundred (100) stamps only and shall be purchased from and sold only by said Treasurer, except as hereinafter provided. When the Comptroller deems it proper to accept the compromise provided for in Section 22, and the offender does not possess sufficient unused stamps to cover his unstamped stock of cigarettes, then and in that event the offender may purchase the required stamps from any distributor through a requisition from the Comptroller in order that his unstamped stock of cigarettes may be stamped immediately and under the direction of the Comptroller and the Comptroller shall have the authority to issue such requisition which shall be made in triplicate form prescribed by the Comptroller with the printed words "Original," "Duplicate," and "Triplicate," on the respective sheets thereof. The original requisition shall be kept by the Comptroller and the duplicate and triplicate shall be delivered to the purchaser and seller of said stamps, respectively, who shall hold such copies of requisition at all times open to the inspection of the Comptroller and the Attorney General for a period of two (2) years. The Comptroller shall have the power and authority in the enforcement of this Act to recall any stamps which have been sold by said Treasurer and which have not been used and it shall be the duty of said Treasurer upon receipt of such recalled stamps to issue stamps of other serial numbers therefor. The purchaser of any stamps shall be required to surrender any unused stamps for exchange upon demand of said Comptroller. As amended Acts 1950, 51st Leg., 1st C.S., p. 1, ch. 1, § 1(b).

#### Use of meters

Sec. 2a. In addition to the powers granted in Section 2, the Comptroller is empowered to authorize licensed cigarette distributors to impress on or attach to each package of cigarettes, evidence of tax payments, by means of a stamp metering machine. The Comptroller shall adopt rules and regulations relating to the imprinting of such tax meter stamps as will result in payment of the proper taxes herein imposed. No distributor shall affix revenue tax stamps to original packages of cigarettes by imprinting tax meter stamps thereon unless such distributor has first obtained permission from the Comptroller to employ this method of affixation. The Comptroller shall regulate the use of tax meters and may, to assure the proper collection of the taxes imposed by this Act, revoke or suspend the privilege, theretofore granted by the Comptroller to any distributor, without previous notice, to imprint tax meter stamps upon original packages of cigarettes; and provided that all distributors of cigarettes using meter stamping machines shall submit their request for settings on forms to be furnished by the Treasurer of the State of Texas. Distributors must forward their meters, at the expense of the distributor, direct to the State Treasurer, Austin, Texas, for setting, accompanied by proper remittance as required. The meter will then be set and returned, insurance and shipping costs collect upon delivery. The State Treasurer will retain the key to the meter and the seal on said meter may be broken or removed only by the State Treasurer. All requests for meter settings shall be in units of one hundred (100) and must not exceed ninety-nine thousand, nine hundred (99,900). Added Acts 1950, 51st Leg., 1st C.S., p. 1, ch. 1, § 8.

Emergency. Effective Feb. 28, 1950.

## Cigarette stamp tax board; sale of stamps

## Text of Section 3 until Aug. 31, 1957

Sec. 3. A "Cigarette Tax Stamp Board" composed of the Board of Control of this State, designated hereafter as the "Board," is hereby created and the said Board shall be and is hereby required to design and have printed or manufactured new cigarette tax stamps of such size and denominations and in such quantities as may be determined by the said Board. The stamps shall be so manufactured as to render them easy to be securely attached to each individual package of cigarettes; provided that a different and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet of stamps, or other methods of identification be adopted as the Board may decide. The printing or manufacturing of the stamps shall be awarded by competitive bid and the contract shall be awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act.

The Board, acting through the Treasurer, shall, upon receipt of the stamps hereinabove authorized to be printed or manufactured, designate the date of issue of the new design of stamps by issuing a proclamation as hereinafter provided. Provided that the stamps shall be affixed by the distributor on each individual package of cigarettes that will be handled, sold, distributed, or used; that said stamps shall be supplied by said Treasurer to all distributors holding a permit in the State at a discount of four per cent (4%) of three-fourths ( $\frac{3}{4}$ ) of the face value; provided that if any distributor fails or refuses to comply with any provision of the cigarette tax law or violates the same such distributor shall be required to pay the full face value for stamps purchased during the period of such offense and the Treasurer shall, upon receipt of an affidavit from the Comptroller, setting forth such violation, refuse to supply stamps at the discount provided until such offending distributor has paid any unauthorized discounts received by him and has otherwise purged himself of all such violations; provided further, that every distributor shall cause to be affixed to every individual package of cigarettes on which a tax is due, stamps of an amount equaling the tax due thereon, before any such distributor sells, offers for sale, or consumes, or otherwise distributes or transports the same.

From the effective date of this Act, one-fourth ( $\frac{1}{4}$ ) of the net revenue derived from the tax levied on cigarettes weighing not more than three (3) pounds per thousand, and five-fourths ( $\frac{5}{4}$ ) of the net revenue derived from the tax levied on cigarettes weighing more than three (3) pounds per thousand, shall be credited to a special fund to be known as the State Hospitals and Special Schools Building Fund, which is hereby created; one-fourth ( $\frac{1}{4}$ ) of the balance of the net revenue derived from the tax levied on cigarettes shall be credited to the State Available School Fund and three-fourths ( $\frac{3}{4}$ ) shall be credited to the Clearance Fund established by House Bill No. 8, Acts, Forty-seventh Legislature, 1941, page 269, Chapter 184.<sup>1</sup> Provided however, that not in excess of Five Million Dollars (\$5,000,000) shall be credited to the State Hospitals and Special Schools Building Fund for the biennium ending August 31, 1951 and not in excess of Five Million Dollars (\$5,000,000) for each fiscal year thereafter shall be credited to such fund. Any balance in excess of such Five Million Dollars (\$5,000,000) in any fiscal year shall be transferred to and become a part of the State Hospital Fund hereby created, which is and shall be the same State Hospital Fund as provided for in House Bill No. 3 of the First Called Session of the Fifty-first Legislature.<sup>2</sup>

The State Treasurer is hereby required to redeem at face value any unused cigarette tax stamps lawfully issued prior to such change in denomination and in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps for cigarette tax stamps of the new denomination. After the effective date of this Act, every person having in his possession stamps of the old denomination shall send them to the Treasurer for exchange at face value for stamps of the new denomination. Such exchange shall be made within thirty (30) days after the effective date of this Act, and it shall be unlawful for any person to have in his possession any stamps of the old denomination after the expiration of thirty (30) days from the effective date of this Act. It shall further be unlawful for any person to sell, offer for sale, or possess for the purpose of sale, cigarettes to which stamps of the old denomination are affixed. After the expiration of thirty (30) days from the effective date of this Act, stamps of the old denomination shall be void, provided, that stamps removed from cigarettes determined by the Comptroller to be unsaleable may be redeemed under rules and regulations promulgated or hereafter promulgated by the Comptroller. Every retail dealer and wholesale dealer having cigarettes to which stamps of the old denomination are affixed in his stock in quantities of two thousand (2,000) or more on the effective date of this Act shall immediately inventory the same and file a report of such inventory to the Comptroller and attach to such inventory a cashier's check payable to the State Treasurer in a sum equal to the amount of additional tax due on such cigarettes computed at the new rate provided in this Act. Such retail dealer or wholesale dealer shall retain as a receipt to evidence payment of the tax a purchaser's copy of the cashier's check and shall retain a copy of the inventory reported to the Comptroller.

All funds credited to the State Hospitals and Special Schools Building Fund under this Act are hereby appropriated to the Board for Texas State Hospitals and Special Schools for the purpose of constructing, repairing and equipping such buildings as in the opinion of the Board are necessary to the proper care of those committed or to be committed to such hospitals and special schools according to law. Provided however, the fees paid to an architect shall not exceed six per cent (6%) for the plans, specifications and supervisions of said buildings and all contracts made for and the final acceptance in connection with such construction other than the plans and specifications, shall be subject to the review and approval of the Board of Control.

All unexpended balances of funds appropriated to the said Board existing at the end of this or any succeeding biennium shall revert and be returned to the State Hospitals and Special Schools Building Fund.

The Board is hereby authorized to change the design of the stamps as often as it may deem such change necessary to the best enforcement of the provisions of this Act, and the Treasurer is hereby required to redeem at face value any unused cigarette tax stamps lawfully issued, prior to such change in the design, which are in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps of the new design. Provided that whenever a change is made in the design of the stamps every person holding stamps of the old design shall be required to send them to the Treasurer for exchange at face value for stamps of the new design. Such exchange shall be made within sixty (60) days after the date of issue of the new design of stamps and it shall be unlawful for any person to have in his possession any stamps of an old design after sixty (60) days from the date of issue of a new design; provided, it shall be unlawful for any person to sell, offer for sale, or possess for the purpose of sale, cigarettes to which stamps of the old design are affixed after

sixty (60) days from the date of issue of a new design; provided, further, that after sixty (60) days from the date of issue of any new design of stamps the old design shall be void and cigarettes with stamps of the old design affixed to the individual package shall, for the purpose of the enforcement of the provisions of this Act, be considered as cigarettes without stamps affixed thereto. It shall be the duty of the Treasurer upon receipt of any new design of stamps authorized to be printed by the Board to designate the date of issue of such new design by the issuance of a proclamation and the date of such proclamation shall be the date of issue of the new design of stamps.

Any person who shall have in his possession any cigarette tax stamps of the old design after sixty (60) days from the date of issue of a new design of stamps shall be guilty of a felony and shall be punished as set out in Section 26 of this Act.

Provided that any cigarette tax stamps may be exchanged only when proof satisfactory to said Treasurer is furnished that any stamps offered to said Treasurer in exchange were properly purchased and paid for by the person offering to exchange such stamps; provided, further, that stamps which are effaced or mutilated in any manner may be refused for acceptance in exchange by said Treasurer.

The Treasurer shall keep a record of all stamps sold by him or under his direction, of all stamps exchanged by him and of all refunds made on stamps purchased.

Orders for cigarette tax stamps shall be sent direct to the Treasurer and it shall be the duty of the Treasurer to invoice the stamps ordered to the purchaser upon a form invoice to be prescribed by the Treasurer, which invoice shall be issued in triplicate and numbered consecutively. The invoice shall show the date of sale, the name and address of purchaser, the number of stamps and their serial numbers, the denomination and value of stamps so purchased. The invoice shall be signed by the Treasurer and the original sent with stamps to the purchaser; the duplicate of the invoice shall be sent to the Comptroller and the triplicate kept by the Treasurer; provided, further, that the purchaser of said stamps shall hold the said invoice for a period of two (2) years for inspection at all times by the Comptroller and the Attorney General. No stamp affixed to a package of cigarettes shall be cancelled by any letter, numeral or any other mark of identification or otherwise mutilated in any manner that will prevent or hinder the Comptroller in making an examination as to the genuineness of said stamps.

Stamps in unbroken sheets of one hundred (100) stamps may be exchanged, with the Treasurer only, for stamps of a different denomination. Provided, further, that the Treasurer shall be authorized to make refunds on unused stamps in unbroken sheets of not less than one hundred (100) stamps each to the person who purchased said stamps only when proof satisfactory to said Treasurer is furnished that any stamps upon which a refund is requested were properly purchased from said Treasurer and paid for by the person requesting such refund. Such refund shall be made from revenue derived from this Act before such revenue is allocated as herein provided. As amended Acts 1950, 51st Leg., 1st C.S., p. 1, ch. 1, § 2(a).

<sup>1</sup> Art. 7065b—1 et seq. See art. 7083a.

<sup>2</sup> Art. 7057e.

Emergency. Effective Feb. 28, 1950.

### Text of Section 3 effective Sept. 1, 1957

Sec. 3. A "Cigarette Tax Stamp Board" composed of the Board of Control of this State, designated hereafter as the "Board," is hereby

created and the said Board shall be and is hereby required to design and have printed or manufactured new cigarette tax stamps of such size and denominations and in such quantities as may be determined by the said Board. The stamps shall be so manufactured as to render them easy to be securely attached to each individual package of cigarettes; provided that a different and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet of stamps, or other methods of identification be adopted as the Board may decide. The printing or manufacturing of the stamps shall be awarded by competitive bid and the contract shall be awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act.

The Board, acting through the Treasurer, shall, upon receipt of the stamps hereinabove authorized to be printed or manufactured, designate the date of issue of the new design of stamps by issuing a proclamation as hereinafter provided. Provided that the stamps shall be affixed by the distributor on each individual package of cigarettes that will be handled, sold, distributed, or used; that said stamps shall be supplied by said Treasurer to all distributors holding a permit in the State at a discount of four per cent (4%) from the face value; provided that if any distributor fails or refuses to comply with any provision of the cigarette tax law or violates the same such distributor shall be required to pay the full face value for stamps purchased during the period of such offense and the Treasurer shall, upon receipt of an affidavit from the Comptroller, setting forth such violation, refuse to supply stamps at the discount provided until such offending distributor has paid any unauthorized discounts received by him and has otherwise purged himself of all such violations; provided further, that every distributor shall cause to be affixed to every individual package of cigarettes on which a tax is due, stamps of an amount equaling the tax due thereon, before any such distributor sells, offers for sale, or consumes, or otherwise distributes or transports the same.

One-fourth ( $\frac{1}{4}$ ) of the net revenue derived from the Act levying the cigarette tax shall be credited to the Available School Fund of the State of Texas and three-fourths ( $\frac{3}{4}$ ) shall be credited to the Clearance Fund established by House Bill No. 8, Acts, Forty-seventh Legislature, 1941, page 269, Chapter 184.<sup>1</sup>

The Board is hereby authorized to change the design of the stamps as often as it may deem such change necessary to the best enforcement of the provisions of this Act, and the Treasurer is hereby required to redeem at face value any unused cigarette tax stamps lawfully issued, prior to such change in the design, which are in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps of the new design. Provided that whenever a change is made in the design of the stamps every person holding stamps of the old design shall be required to send them to the Treasurer for exchange at face value for stamps of the new design. Such exchange shall be made within sixty (60) days after the date of issue of the new design of stamps and it shall be unlawful for any person to have in his possession any stamps of an old design after sixty (60) days from the date of issue of any new design; provided, it shall be unlawful for any person to sell, offer for sale, or possess for the purpose of sale, cigarettes to which stamps of the old design are affixed after sixty (60) days from the date of issue of a new design; provided, further, that after sixty (60) days from the date of issue of any new design of stamps the old design shall be void and cigarettes with stamps of the old design af-

fixed to the individual package shall, for the purpose of the enforcement of the provisions of this Act, be considered as cigarettes without stamps affixed thereto. It shall be the duty of the Treasurer upon receipt of any new design of stamps authorized to be printed by the Board to designate the date of issue of such new design by the issuance of a proclamation and the date of such proclamation shall be the date of issue of the new design of stamps.

Any person who shall have in his possession any cigarette tax stamps of an old design after sixty (60) days from the date of issue of a new design of stamps shall be guilty of a felony and shall be punished as set out in Section 26 of this Act.

Provided that any cigarette tax stamps may be exchanged only when proof satisfactory to said Treasurer is furnished that any stamps offered to said Treasurer in exchange were properly purchased and paid for by the person offering to exchange such stamps; provided, further, that stamps which are effaced or mutilated in any manner may be refused for acceptance in exchange by said Treasurer.

The Treasurer shall keep a record of all stamps sold by him or under his direction, of all stamps exchanged by him and of all refunds made on stamps purchased.

Orders for cigarette tax stamps shall be sent direct to the Treasurer and it shall be the duty of the Treasurer to invoice the stamps ordered to the purchaser upon a form invoice to be prescribed by the Treasurer, which invoice shall be issued in triplicate and numbered consecutively. The invoice shall show the date of sale, the name and address of purchaser, the number of stamps and their serial numbers, the denomination and value of stamps so purchased. The invoice shall be signed by the Treasurer and the original sent with stamps to the purchaser; the duplicate of the invoice shall be sent to the Comptroller and the triplicate kept by the Treasurer; provided, further, that the purchaser of said stamps shall hold the said invoice for a period of two (2) years for inspection at all times by the Comptroller and the Attorney General. No stamp affixed to a package of cigarettes shall be cancelled by any letter, numeral or any other mark of identification or otherwise mutilated in any manner that will prevent or hinder the Comptroller in making an examination as to the genuineness of said stamp.

Stamps in unbroken sheets of one hundred (100) stamps may be exchanged, with the Treasurer only, for stamps of a different denomination. Provided, further, that the Treasurer shall be authorized to make refunds on unused stamps in unbroken sheets of not less than one hundred (100) stamps each to the person who purchased said stamps only when proof satisfactory to said Treasurer is furnished that any stamps upon which a refund is requested were properly purchased from said Treasurer and paid for by the person requesting such refund. Such refund shall be made from revenue derived from this Act before such revenue is allocated as herein provided. As amended Acts 1950, 51st Leg., 1st C.S., p. 1, ch. 1, § 2(b).

<sup>1</sup> Art. 7065b—1 et seq. See art. 7083a.

### **Text of Section 30a until Aug. 31, 1957**

#### **Funds for administration and enforcement**

Sec. 30a. Two and one-half per cent (2½%) of three-fourths (¾) of the gross revenue derived from the tax levied by this Act shall be set aside in a special fund subject to the use of the Comptroller to be expended in the administration and enforcement of the provisions of this Act, and so much of the proceeds of two and one-half per cent

(2½%) of three-fourths (¾) of said tax and funds shall be and the same is hereby appropriated to the Comptroller for said purposes and same shall be paid monthly as needed. Added Acts 1950, 51st Leg., 1st C.S., p. 1, ch. 1, § 4.

Sections 5-7A of Acts 1951, 51st Leg., 1st C.S., p. 1, ch. 1, read as follows:

"Sec. 5. This Act shall be cumulative of other Acts relating to the levying of a tax on cigarettes, and all laws or parts of laws in conflict with this Act are hereby suspended until August 31, 1957, to the extent of such conflict.

"Sec. 6. The provisions of this Act are hereby declared to be severable and the Legislature would have passed this Act and each section, subsection, sentence, clause and phrase hereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases should be declared unconstitutional by a Court of competent jurisdiction.

"Sec. 7. The tax herein levied is intended by the Legislature to be an excise or use tax and not an occupation tax, but in the event that any Court of competent jurisdiction shall declare the tax levied herein to be an occupation tax, it is hereby

specifically declared to be the intention of the Legislature that such holding shall not affect the validity of the remaining provisions of this Act, and in that event, one-fourth (¼) of the net revenue derived from the tax levied herein shall be allocated to the Available School Fund. One-fourth (¼) of the balance of the net revenue derived from the tax levied herein shall be allocated to the State Hospitals and Special Schools Building Fund and three-fourths (¾) shall be allocated to the Clearance Fund established by House Bill No. 8, Acts, Forty-seventh Legislature, Regular Session, 1941, page 269, Chapter 184, as amended.

"Sec. 7A. All funds herein credited to the special fund to be known as the State Hospitals and Special Schools Building Fund shall not be spent by the Board for Texas State Hospitals and Special Schools after August 31, 1951, unless appropriated by an Act of the Legislature."

#### Art. 7047k—1. Additional tax on motor vehicle sales

Section 1. (a) In addition to all other taxes, there is hereby levied a tax upon every retail sale of every motor vehicle sold in this State, such tax to be equal to one-tenth (1/10) of one per cent (1%) of the total consideration paid or to be paid to the seller by the buyer, which consideration shall include the amount paid or to be paid for said motor vehicle and all accessories attached thereto at the time of the sale, whether such consideration be in the nature of cash, credit, or exchange of other property, or a combination of these. In the event the consideration received by the seller includes any tax imposed by the Federal Government, then such Federal tax shall be deducted from such consideration for the purpose of computing the amount of tax levied by this Article upon such retail sale.

(b) In all cases of retail sales involving the exchange of motor vehicles, the party transferring the title to the motor vehicle having the greater value shall be considered the seller, and no tax is imposed upon the transfer of a motor vehicle traded in upon the purchase price of some other motor vehicle.

Sec. 2. In addition to all other taxes, there is hereby levied a use tax upon every motor vehicle purchased at retail sale outside of this State and brought into this State for use upon the public highways thereof by a resident of this State, or by firms or corporations domiciled or doing business in this State. Such tax shall be equal to one-tenth of one per cent of the total consideration paid or to be paid for said vehicle at said retail sale. The tax shall be the obligation of and be paid by the person, firm, or corporation operating said motor vehicle upon the public highways of this State.

Sec. 3. (a) The term "sale" or "sales" as herein used shall include instalment and credit sales, and the exchange of property, as well as the sale thereof for money, every closed transaction constituting a sale. The transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

(b) The term "retail sale" or "retail sales" as herein used shall include all sales of motor vehicles except those whereby the purchaser acquires a motor vehicle for the exclusive purpose of resale and not for use.

(c) The term "motor vehicle" as herein used shall mean every self-propelled vehicle in, or by which, any person or property is or may be transported upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or tracks; but this definition shall not include tractors used exclusively to pull farm machinery or road-building machinery.

Sec. 4. The license fees and taxes imposed by or under this Article shall be in addition to any and all license fees and taxes imposed by or under any other law of this State.

Sec. 5. The taxes levied in this Article shall be collected by the Assessor and Collector of Taxes of the county in which any such motor vehicle is first registered or first transferred after such a sale; the Tax Collector shall refuse to accept for registration or for transfer any motor vehicle until the tax thereon is paid.

When a tax becomes due on a motor vehicle purchased outside of this State and brought into this State for use upon the highways, the person, firm, or corporation operating said motor vehicle upon the public highways of this State shall pay the tax imposed by Section 2 to the Tax Collector of the county in which such motor vehicle is to be registered. The tax shall be paid at the time application is made for registration of said motor vehicle, and the Tax Collector shall refuse to issue the registration license until the tax is paid.

Sec. 5. (a). At the time the tax herein levied is paid to said Tax Collector the purchaser shall file with said Tax Collector the affidavit of such purchaser (or if a corporation the affidavit of the President, Vice-president, Secretary, or Manager) setting forth the then value in dollars of the total consideration received or to be received by such seller or his nominee, whether in money or other thing of value.

Sec. 6. The Tax Collector shall issue a receipt to the person paying taxes prescribed hereunder, making two (2) duplicate copies of said receipt, the form of said receipt to be prescribed by the Comptroller of Public Accounts. Between the first and fifteenth of April, July, October and January, the Tax Collector shall forward ninety-eight per cent (98%) of the money collected hereunder during the preceding three (3) months to the Comptroller of Public Accounts, together with one duplicate copy of each of the receipts issued by him to persons paying the tax to the Collector. He shall retain the other duplicate receipt as a permanent record in his office together with two per cent (2%) of the money collected as fees of office, or paid into the officers salary fund of the county as provided by general law.

Sec. 7. If any person shall knowingly operate any motor vehicle, such as defined in this Article, upon the highways of this State without the tax thereon having been paid as herein levied and provided, he shall be deemed guilty of a misdemeanor and punished by a fine of not less than Ten Dollars (\$10) nor more than Five Hundred Dollars (\$500), or confined in the county jail for not less than one (1) day nor more than thirty (30) days or by both such fine and imprisonment. Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. VI.

Section 8 of Art. VI of the act of 1950 read as follows: "This Article shall become effective on the first day of the first month after the effective date [Feb. 28, 1950] of

this Act; and the tax levied herein is on sale or use of motor vehicles prior to midnight August 31, 1951, and not thereafter."



**Art. 7047l. Radios, cosmetics, cards; luxury exercise tax; penalty for making false report or failure to report**

Sec. 1½. In addition to all other taxes, each person, partnership, association, or corporation selling at retail new radios, television sets, or new cosmetics, shall make quarterly on the first days of July and October of 1950, and the first days of January, April, July and September of 1951, a report to the Comptroller, under oath of the owner, manager, or if a corporation, an officer thereof, showing the aggregate gross receipts from the sale of any of the above-named items for the quarter next preceding; and in addition to all other taxes, shall at the same time pay to the Comptroller a luxury excise tax equal to ten per cent (10%) of two per cent (2%) of said gross receipts as shown by said report.

Every person, partnership, association, or corporation, selling at retail, playing cards shall make quarterly reports at the times stated above showing the total number of packs or decks of such cards sold during the preceding quarter, and shall at the same time pay to the Comptroller a luxury excise tax of ten per cent (10%) of five cents (5¢) per pack or deck of such playing cards so sold.

Nothing herein shall be construed so as to require payment of the tax on gross receipts herein levied more than once on the proceeds of the sale of the same article or merchandise. A retail sale as used herein, means a sale to one who buys for use or consumption, and not for resale. Gross receipts of a sale means the sum which the purchaser pays, or agrees to pay for an article or commodity bought at retail sale, but does not include the amount of tax provided by this Section, which the seller charges and receives above the regular price of an article or commodity.

The report required to be filed as of September 1, 1951, shall cover the months of July and August, 1951, and the tax levied above paid for such months based on such report. This tax is levied on sales made for the period beginning with the effective date of this Section through and including August 31, 1951, and not thereafter. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. X, § 1.

Section 2 of Art. X of the act of 1950 read as follows: "Section 1 of this Article shall become effective on the first day of [Feb. 28, 1950] after the effective date of this Act."

**Art. 7047m. Stock transfer and sales tax****Additional tax**

Sec. 1½. In addition to the tax levied in Section 1 of Article XV of House Bill 8, Acts Regular Session, Forty-seventh Legislature, as amended, there is hereby imposed and levied a tax as hereinafter provided on all sales; agreements to sell; or memoranda of sales; and all deliveries or transfers of shares; or certificates of stock; or certificates for rights to stock; or certificates of deposit representing an interest in or representing certificates made taxable under this section in any domestic or foreign association, company, or corporation; or certificates of interest in any business conducted by trustee or trustees made after the effective date hereof, whether made upon or shown by the books of the association, company, corporation, or trustee, or by any assignment in blank or by any delivery of any papers or agreement or memorandum or other evidence of sale or transfer or order for or agreement to buy, whether intermediate or final, and whether investing the holder with the beneficial interest in or legal title to such stock or other certificate taxable hereunder, or with the possession or use thereof for any purpose, or to secure the future payment of money or the future transfer of any such stock, or certificate, on each hundred dollars of face value or fraction thereof, ten per cent

(10%) of three cents (3¢); except in cases where the shares or certificates are issued without designated monetary value, in which case the tax shall be at the rate of ten per cent (10%) of three cents (3¢) for each and every share. It shall be the duty of the person or persons making or effectuating the sale or transfer to procure, affix and cancel the stamps and pay the tax provided by this Article. It is not intended by this Article to impose a tax upon an agreement evidencing the deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon such certificates so deposited, nor upon transfers of such certificates to the lender or to a nominee of the lender or from one nominee of the lender to another, provided the same continue to be held by such lender or nominee or nominees as collateral security as aforesaid; nor upon the re-transfer of such certificates to the borrower; nor upon transfers of certificates from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, provided the same continue to be held by such nominee or nominees for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary; nor upon mere loans of stock or certificates, or the return thereof; nor upon deliveries or transfers to a broker for sale; nor upon deliveries or transfer by a broker to a customer for whom and upon whose order he has purchased the same, but transfers to the lender, or to a nominee or nominees as aforesaid, or re-transfers to the borrower or fiduciary; and deliveries or transfers to a broker for sale, or by a broker to a customer for whom and upon whose order he has purchased the same shall be accompanied by a certificate setting forth the fact; nor upon transfers or deliveries made pursuant to an order of the Federal Securities and Exchange Commission which specifies and itemizes the securities ordered by it to be delivered or transferred (provided that this exemption shall not apply to such transfers or deliveries made before the passage of this Act); nor upon record transfers following such transfers or deliveries; nor in respect to shares or certificates of stock, or certificates of rights to stocks, or certificates of deposit representing certificates of the character taxed by this Article, in any domestic association, company, or corporation, if neither the sale, nor the order for, nor agreement to buy, nor the agreement to sell, nor the memorandum of sale, nor the delivery is made in this State and when no act necessary to effect the sale or transfer is done in this State. The payment of such tax shall be denoted by an adhesive stamp or stamps affixed as follows: In the case of a sale or transfer, where the evidence of the transaction is shown only by the books of the association, company, corporation, or trustee, the stamp shall be placed upon such books, and it shall be the duty of the person making or effectuating such sale or transfer to procure and furnish to the association, company, corporation, or trustee the requisite stamps, and of such association, company, corporation, or trustee to affix and cancel the same. Where the transaction is effected by the delivery or transfer of a certificate the stamp shall be placed upon the surrendered certificate and canceled; and in cases of an agreement to sell, or where the sale is effected by delivery of the certificate assigned in blank, there shall be made and delivered by the seller to the buyer, a bill or memorandum of such sale, to which the stamp provided for by this Article shall be affixed and canceled; provided, however, that such bill or memorandum may be made in duplicate and the stamp provided for by this Article may be affixed to a duplicate of such bill or memorandum and canceled, and such duplicate of such bill or memorandum may be kept by the party making such sale in his possession, provided that he shall enter upon the original of such bill or memorandum a date and number showing that such bill or memorandum was made in duplicate

and that the stamp was affixed to the duplicate thereof retained by the seller. Every such bill or memorandum of sale or agreement to sell shall show the date of the transaction which it evidences, the name of the seller, the stock, or other certificate, to which it relates, and the number of shares thereof. All such bills or memoranda of sale shall bear a number upon the face thereof and no more than one such bill or memorandum of sale made by the seller on any given day shall bear the same number. The aforesaid identification number of the bill or memorandum of sale shall in all cases be entered and recorded in a book of account.

Adhesive stamps for the purpose of paying the tax provided in this Section 1½ shall be prepared by the Comptroller in such form, in such denomination and in such quantity as he may prescribe from time to time. The Comptroller may, within his discretion, provide separate stamps for evidencing the tax paid by this Section 1½ or may provide and furnish stamps for the purpose of the payment of both the tax levied by this Section 1½ and the tax levied in Section 1 of Article XV of House Bill 8, Acts, Regular Session, Forty-seventh Legislature as amended. This Section 1½ shall be effective from the effective date thereof through and including August 31, 1951. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XIV, § 1.

Section 2 of Art. XIV of the act of 1950 read as follows: "Section 1 of this Article shall become effective on the first day of the first month after the effective date [Feb. 28, 1950] of this Act."

#### Art. 7047n. Occupation tax on sulphur producers

Section 1. Sulphur Producers: In addition to all other taxes, each person, firm, association, or corporation who owns, controls, manages, leases, or operates any sulphur mine, or mines, wells, or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly, on the first day of July and October of 1950, and on the first day of January, April, July and September of 1951, a report to the Comptroller in this State, or if such person be other than individual, sworn to by its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding, and at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date an amount equal to ten per cent (10%) of \$1.272 per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter. The months of July and August of 1951 shall constitute a quarter for the purposes of this Section.

Any person subject to the payment of said tax on sulphur failing to pay the tax levied in this Article within thirty (30) days after same is due and payable shall pay to the State as a penalty an additional amount equal to ten per cent (10%) of the taxes due, and such tax and penalty shall draw interest at the rate of six per cent (6%) per annum from the due date until paid. The Attorney General or any district or county attorney at the direction of the Attorney General shall bring suit in behalf of the State to recover the amount of taxes, penalties, and interest past due and payable by any person affected by this law. The word "person" as used in this law shall include persons, firms, partnerships, companies, corporations, associations, common law trusts, or other concern by whatever name or howsoever organized, formed, or created.

The Comptroller may require such other information and such additional reports as he may deem advisable.

This tax is levied on sulphur produced from the effective date of this Section and prior to September 1, 1951, and not thereafter. Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. III, § 1.

Section 2 of Art. III of the act of 1950 read as follows: "Section 1 of this Article the first month after the effective date shall become effective on the first day of [Feb. 28, 1950] of this Act."

#### Art. 7047o. Carbon black producers, occupation tax on

Section 1. (a) In addition to all other taxes, there is hereby levied an occupation tax on every person, agent, receiver, trustee, firm, association, or copartnership manufacturing or producing carbon black in this State, such tax to be as follows:

1. On "Class A" carbon black said tax to be ten per cent (10%) of one hundred twenty-two twelve hundredths ( $122/1200$ ) of one cent (1¢) per pound on all such carbon black produced or manufactured where the market value is four cents (4¢) per pound or less, and shall be ten per cent (10%) of four and one-tenth per cent (4.1%) of the value of all such carbon black produced or manufactured where the market value is in excess of four cents (4¢) per pound.

2. On "Class B" carbon black said tax to be ten per cent (10%) of thirty-one two hundred fortieths ( $31/240$ ) of one cent (1¢) per pound on all such carbon black produced or manufactured where the market value is four cents (4¢) per pound or less, and shall be ten per cent (10%) of five and two-tenths per cent (5.2%) of the value of all such carbon black produced or manufactured where the market value is in excess of four cents (4¢) per pound.

"Class A" carbon black as used in this Article means carbon black manufactured or produced by the use of less than two hundred (200) cubic feet of gas per pound of carbon black.

"Class B" carbon black as used in this Article means carbon black manufactured or produced by the use of more than two hundred (200) cubic feet of gas per pound of carbon black.

Should one (1) or more of the classifications herein be declared for any reason to be discriminatory or unconstitutional or for any reason invalid, then in addition to all other taxes, there is hereby levied on all carbon black manufactured or produced in this State a tax of ten per cent (10%) of one hundred twenty-two twelve hundredths ( $122/1200$ ) of one cent (1¢) per pound on all carbon black produced or manufactured where the market value is four cents (4¢) per pound or less, and a tax of ten per cent (10%) of four and one-tenth per cent (4.1%) of the value of all carbon black produced or manufactured where the market value is in excess of four cents (4¢) per pound.

The market value of a particular type or grade of carbon black shall be the average sales price of that type or grade of all bona fide sales made during the month on which the tax is being paid less the cost of packing, freight, and cartage. If no carbon black of the particular type or grade has been sold during the month for which the tax is being paid then the actual market value of the same shall be the average sales price of that type or grade of all bona fide sales during the last preceding month in which a bona fide sale of that particular type or grade of carbon black was made, less packing, freight, and cartage.

(b) The tax herein imposed shall be due and payable at the office of the Comptroller at Austin on the twenty-fifth day of each succeeding month. On or before such date each person, agent, receiver, trustee, firm, corporation, association, or copartnership manufacturing or producing carbon black in this State shall file with the Comptroller of Public Accounts a report on a form prescribed by the Comptroller which report shall show

the amount of carbon black manufactured or produced during the preceding month by said person, agent, receiver, trustee, firm, corporation, association, or copartnership. Such information shall be segregated according to grades and types of carbon black and the report shall show how much of each grade or type manufactured or produced by the person, agent, receiver, trustee, firm, corporation, association, or copartnership was actually manufactured or produced during the month on which the tax is being paid. The tax shall be computed on each grade or type reported separately by taking the rate of tax as imposed by Section (a) hereof after determining the actual market value as that term is defined therein of said grade or type and multiplying such rate against the amount of the particular type or grade of carbon black actually manufactured or produced during the month on which the tax is being paid. The tax is to be paid on all carbon black manufactured or produced during the month whether the same has been sold or not. The reports provided for herein shall contain such other information as the Comptroller of Public Accounts shall require.

(c) A complete record of the business done, together with any other information the Comptroller may require, shall be kept by such distributor; which said record shall be open to the Comptroller, Attorney General, Auditor and their representatives; the Comptroller shall adopt rules and regulations for the enforcement hereof.

(d) In the event any person engaged in the business of producing or manufacturing carbon black in this State shall become delinquent in the payment of taxes herein imposed, the Attorney General may enjoin such person from producing or manufacturing carbon black until the delinquent tax is paid, and the venue of any such suit for injunction is hereby fixed in Travis County.

(e) If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25) nor more than One Thousand Dollars (\$1,000) for each violation, and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax promptly, he shall forfeit two per cent (2%) thereof as penalty, and after the first twenty (20) days he shall forfeit an additional eight per cent (8%). Delinquent taxes shall draw interest at the rate of eight per cent (8%) from due date. The State shall have a prior lien for all delinquent taxes, penalties, and interest, on all property used by the producer or manufacturer in his business of manufacturing and producing carbon black.

(f) The term "carbon black" as herein used includes all black pigment produced in whole or in part from natural gas, casinghead gas or residue gas by the impinging of a flame upon a channel disk or plate, or by any other method, and the tax herein imposed shall reach all products produced in such manner.

(g) The tax imposed in this Article XI is levied for the period beginning with the effective date of this Section and extending through and including August 31, 1951. Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XI, § 1.

Section 2 of Art. XI of the act of 1950 read as follows: "Section 1 of this Article shall become effective on the first day of the first month after the effective date [Feb. 28, 1950] of this Act."

#### **Art. 7048a. Additional county tax levy for flood control and roads; discontinuance of state levy**

**State ad valorem tax discontinued from Jan. 1, 1951**

Section 1. From and after January 1, 1951, no State ad valorem tax shall be levied upon any property within this State for general revenue purposes, except as hereinafter provided.

**State levy for 1949 and 1950**

Sec. 1a. The Automatic State Tax Board as created by Article 7041 Revised Civil Statutes of Texas, 1925, shall levy and order collected for each of the years 1949 and 1950, on all property in the State subject thereto an ad valorem tax of thirty cents (30¢) on the One Hundred Dollar (\$100) valuation for State purposes. The tax so levied shall be and is hereby allocated as now or as may hereafter be provided by law.

**County levy for flood control and farm-to-market and lateral roads;  
inapplicable when state taxes donated**

Sec. 2. From and after January 1, 1951, the several counties of the State be and they are hereby authorized to levy, assess and collect ad valorem taxes upon all property within their respective boundaries for county purposes, except the first Three Thousand Dollars (\$3,000) value of residential homesteads, not to exceed thirty cents (30¢) on each One Hundred Dollars (\$100) valuation, in addition to all other ad valorem taxes authorized by the Constitution of the State, provided the revenue therefrom shall be used as provided in this Act for the construction and maintenance of Farm-to-Market and Lateral Roads or for Flood Control and for these two (2) purposes only.

Provided, that the provisions of this Act shall not apply to those counties or political subdivisions or areas of the State from which tax donations have heretofore been granted for such period of time as the State Automatic Tax Board shall continue to levy the full amount of the State ad valorem tax for the duration of such donation, but shall apply to said counties at the end of the period of said donation or when all legal obligations heretofore authorized by the law granting such donation or donations shall have been fully discharged, whichever shall first occur. In the event that the donation to any such county or political subdivision is for less than the full amount of State ad valorem taxes so levied, the portion of such taxes remaining over and above such donation shall be retained by said county or subdivision and used in accordance with the provisions of this Act.

**Funds to which taxes credited**

Sec. 3. Taxes levied and collected under the provisions of this Act shall be credited by the Commissioners Court to separate funds known as the Farm-to-Market and Lateral Road Fund, to be used solely for Farm-to-Market and Lateral Roads within such county, and to the Flood Control Fund, to be used solely for Flood Control purposes within such county, said credits to be made proportionately in accordance with the allocation adopted at the election called under the provisions of Sections 7 and 8 of this Act.

**Jurisdiction and use of farm-to-market and lateral road funds**

Sec. 4. The funds placed in the Farm-to-Market and Lateral Road Fund shall be under the jurisdiction and control of the Commissioners Court of said county and all or part of said fund may be used in cooperation with the State Highway Department in acquiring right-of-ways and in constructing and maintaining Farm-to-Market and Lateral Roads.

**Jurisdiction and use of flood control funds**

Sec. 5. The funds transferred to the Flood Control Funds shall be under the jurisdiction and control of the Commissioners Court of such county and shall be used solely for Flood Control purposes. All or part

of said funds may be used in connection with the plans and programs of the Federal Soil Conservation Service and the State Soil Conservation Districts and the State Extension Service, Conservation and Reclamation Districts, Drainage Districts, Water Control and Improvement Districts, Navigation Districts, Flood Control Districts, Levee Improvement Districts and Municipal Corporations, and such funds may be expended by the Commissioners Court in accordance with this Act for flood control purposes, including all soil conservation practices such as contouring, terracing, tank building, and all other practices actually controlling and conserving moisture and water, within any said county and political subdivision thereof for Flood Control and Soil Conservation programs, provided that such plans for improvement are approved by such county and political subdivision.

#### **Soil, water, erosion and drainage program**

Sec. 5a. To this end, the Commissioners Court may, in its discretion, engage the services of a Federal or State Soil Conservation Engineer or of Extension Service personnel, in devising and planning a soil, water, erosion and drainage program coming within the purview of this Act and consistent with the expenditure of said funds for Flood Control purposes only, and may acquire whatever machinery, equipment and material is useful and necessary in carrying out said Flood Control program, provided such machinery and equipment shall be made available to farm and ranch owners for purposes consistent with the provisions of this Act on an out-of-pocket expense basis, not including depreciation.

#### **Equitable distribution of benefits**

Sec. 6. Both the Farm-to-Market and Lateral Road Fund and the Flood Control Fund shall be expended so as to equitably distribute as nearly as possible the benefits derived from such expenditures to the various Commissioners' precincts in accordance with the taxable values therein.

#### **Submission to voters**

Sec. 7. Before any county shall levy, assess and collect the tax provided for herein the question shall by the Commissioners Court of the county be submitted to a vote of the qualified property taxpaying voters of such county at an election called for that purpose, either on said Commissioners Court's own motion, or upon petition of ten per cent (10%) of the qualified property taxpaying voters of said county as shown by the returns of the last general election. Said election shall be ordered at a regular session of said Commissioners Court and such order shall specify the rate of tax to be voted on, not to exceed thirty cents (30¢) on each One Hundred Dollars (\$100) valuation of taxable property within such county, shall state the date when said election shall be held, and shall appoint officers to hold said election in accordance with the election laws of this State. Provided, however, that the proposition submitted to the qualified property taxpaying voters at said election may provide that the tax at a rate not to exceed thirty cents (30¢) on each One Hundred Dollars (\$100) valuation may be used for the construction and maintenance of Farm-to-Market and Lateral Roads or for Flood Control purposes, either or both, as the Commissioners Court may determine (in which event the ballots shall have written or printed thereon, "For the tax of not exceeding \_\_\_\_\_ cents on each One Hundred Dollars (\$100) valuation," and the contrary thereof, specifying the tax to be voted upon), or the proposition may provide for a specific maximum tax for Farm-to-Market and Lateral Roads purposes and a specific maximum tax for Flood Control purposes, the total of the two

(2) specific maximum taxes not to exceed thirty cents (30¢) on the One Hundred Dollars (\$100) valuation (in which event the ballots shall have written or printed thereon, "For a Farm-to-Market and Lateral Roads tax of not exceeding \_\_\_\_\_ cents and a Flood Control tax of not exceeding \_\_\_\_\_ cents, on the One Hundred Dollars (\$100) valuation," and the contrary thereof, specifying the specific taxes to be voted upon). Provided, further, that elections may subsequently be called and held in the same manner for the purpose of changing the amount of the maximum tax within the limit of thirty cents (30¢) on the One Hundred Dollars (\$100) valuation, or for changing the amounts of the maximum specific tax voted for each purpose; provided, however, that such tax or taxes may not be reduced to an extent which would result in the impairment of any bonds or warrants theretofore issued under the provisions of Section 10 of this Act.

**Notice of election; qualification of voters**

Sec. 8. The County Judge shall cause notice of said election to be posted at a public place in each voting precinct in said county not less than fourteen (14) days next before said election and to be published on the same day in each of two (2) successive weeks in a newspaper of general circulation published within said county, the date of the first publication to be not less than fourteen (14) days prior to the date set for the election, which notice shall be a substantial copy of the election order, and only those shall be entitled to vote at said election who are qualified, property taxpaying voters in said county, and who have duly rendered the same for taxation.

**Tax levied if majority vote in favor**

Sec. 9. If a majority of the qualified property taxpaying voters, voting at said election, shall vote in favor of said tax, then the same shall be annually levied, assessed and collected as other county ad valorem taxes are levied, assessed and collected.

**Bonds or time warrants**

Sec. 10. After an election has been held under the provisions of Sections 7 and 8 of this Act, at which election a majority of the qualified, property taxpaying voters, voting at said election, voted in favor of the tax, the Commissioners Court may issue either negotiable county bonds or county time warrants for the purpose of the construction and/or improvement of Farm-to-Market and Lateral Roads, or for the purpose of constructing permanent improvements for Flood Control purposes; provided, however, that any such bonds or warrants must have been authorized by a majority of the qualified property taxpaying voters who have duly rendered the same for taxation voting at an election duly called by the Commissioners Court, such bonds and warrants to be issued and the taxes to be levied and collected in payment thereof in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, and provided further that each proposition shall be separately submitted to the voters at such election.

**State tax in counties, etc., where tax donated**

Sec. 10 (a) (1) Beginning in the year 1951 and each year thereafter the State Automatic Tax Board created by Article 7041 of the Revised Civil Statutes of Texas, 1925, shall cause to be levied annually in each county, political subdivision or other defined area, the full thirty cents (30¢) State ad valorem tax for general revenue purposes, the proceeds of which heretofore were donated and granted by the Legislature



to certain counties, political subdivisions or other defined areas for the purpose of carrying out and performing actions of preventing calamities, improving, protecting and reclaiming certain areas for and on behalf of the State as more fully declared in each applicable law or laws making such donation or grant and said Board shall continue to levy such tax at said rate in each such designated area until the bonds or other obligations of said areas authorized or incurred in connection with the performance of such action on behalf of the State shall have been fully paid or discharged or until the expiration date of such donation or grant as may be determined from the law or laws making such grant or donation, whichever shall first occur.

(2) The provisions of Article 7043, Revised Civil Statutes of Texas, 1925, as amended setting up a formula to govern said Board in ascertaining the rate of tax to be levied for state general revenue purposes shall not apply from and after January 1, 1951. The rate of tax to be levied after said date shall be thirty cents (30¢) on each One Hundred Dollars (\$100) valuation as fixed by the amendment to Section 1-A, Article 8 of the Constitution, as adopted November 2, 1948.

(3) The tax assessors and collectors in each of such Counties shall continue to assess and collect such tax and make the proceeds thereof available to the donees or grantees in the manner provided by the law or laws making each such grant or donation. The moneys thus collected by said tax assessors and collectors and received by such grantees or donees shall be used and accounted for annually as prescribed by the law or laws making such grant or donation.

(4) In those instances where less than the full State general ad valorem tax was granted or donated the portion of the money collected in excess of the amount donated or granted shall be paid over to the governing body of the county or political subdivision from which such tax is collected and in the discretion of said governing body shall be used either for the construction and maintenance of Farm-to-Market Roads or for Flood Control only within the county, political subdivision or defined area from which such tax is collected. The money thus collected in excess of the amount so donated or granted shall be paid monthly as collected to such governing body and the amount so paid shall be fully reported each year to the Comptroller of Public Accounts at the same time such Assessor-Collector makes his annual report as required by law and the governing body of the County, political subdivision or defined area thus receiving such excess money shall likewise report annually to the Comptroller of Public Accounts the sum thus received and the purpose for which it was used. Said report shall be made on or before September 1st of each year. The moneys thus received are declared to be trust funds to be used only for the purpose herein named and the use thereof for any other purpose shall constitute a misapplication of public money and the person or persons so offending shall be punished as provided for in Article 86 of the Penal Code of the State of Texas.

#### **Partial invalidity**

Sec. 11. Should any Section of this Act, or any part of any Section hereof, be held invalid, unconstitutional or inoperative, no other part or parts thereof shall be held affected thereby and the remaining provisions shall nevertheless stand effective and valid as if this Act had been enacted without such part or parts held to be invalid, unconstitutional or inoperative. Acts 1949, 51st Leg., p. 849, ch. 464.

Emergency. Effective June 21, 1949.

Section 12 of the Act of 1949 repealed all conflicting laws and parts of laws.

## Art. 7057a. Occupation tax on oil produced; definitions

## Additional occupation tax

Sec. 2A. (1) In addition to all other taxes, there is hereby levied an occupation tax on oil produced within this State of ten per cent (10%) of four and one hundred twenty-five thousandths cents (4.125¢) per barrel of forty-two (42) standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions and shall be based upon tank tables showing one hundred per cent (100%) of production and exact measurements of contents. Provided however that the occupation tax herein levied on oil shall be ten per cent (10%) of four and one hundred twenty-five thousandths per cent (4.125%) of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1.00) per barrel of forty-two (42) standard gallons. The market value of oil as that term is used herein shall be the actual market value thereof, plus any bonus or premiums or other things of value paid therefor or which such oil will reasonably bring if produced in accordance with the laws, rules, and regulations of the State of Texas.

(2) The tax hereby levied shall be a liability of the producer of oil and it shall be the duty of such producer to keep accurate records of all oil produced, making monthly reports under oath as hereinafter provided.

(3) The purchaser of oil shall pay the tax on all oil purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer. Provided, that if oil produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the manner as if said oil were sold.

(4) The tax levied herein shall be paid monthly on the twenty-fifth day of each month on all oil produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney's fees and court costs incurred by such legal action.

(5) Provided, that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the twenty-fifth of the month immediately following, such payment shall become delinquent and a penalty of ten 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.

(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests, and producers and/or purchasers of oil are hereby authorized and required to withhold from any payment due interested parties the proportionate tax due.

(7) This tax is levied on oil produced or salvaged after the effective date of this Section and prior to midnight August 31, 1951, and not thereafter. Added Acts 1950, 51st Leg., p. 10, ch. 2, Art. I, § 1.

Section 2 of Art. I of the act of 1950 read as follows: "Section 1 of this Article shall become effective at 7:00 o'clock a.m. on the first day of the first month after the effective date of this Act [Feb. 28, 1950]."

**Art. 7057e. General provisions as to certain occupation and other taxes****Lien**

Section 1. All taxes, fines, penalties, and interest due by any individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, trustee, or receiver to the State of Texas, by virtue of this Act,<sup>1</sup> shall be a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all the property of any individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, trustee, or receiver. This lien shall be cumulative, and in addition to the liens for taxes, fines, penalties, and interest now provided by law, and shall attach as of the date such tax or taxes are due and payable.

**Failure to deduct and withhold**

Sec. 2. Any person, firm, corporation, or association of persons purchasing any natural resources upon which a tax is levied by this Act who fails to deduct and withhold the proper amount of taxes which are due and unpaid under any provision of this Act, shall be liable to the State for the full amount of such taxes plus any accrued penalties and interest thereon.

**Effect of expiration of act**

Sec. 3. All sales, occupation, excise, license fees, or other taxes, penalties and interest accruing to the State of Texas prior to the expiration of this Act by virtue of this Act or any Section or part thereof, shall not be affected by the expiration of this Act or any portion thereof, but shall be and remain valid and binding obligations to the State of Texas, and all taxes, fines, penalties, and interest accruing under the provisions of prior or existing occupation, excise, or other tax laws, and all such taxes, penalties, and interest hereafter becoming delinquent to the State of Texas are hereby expressly preserved and declared to be legal and valid obligations to the State of Texas. This Section is cumulative of other similar provisions of this Act.

**Offenses and prosecutions as affected by expiration**

Sec. 4. Neither the expiration of this Act nor of any Article, section or part thereof, shall affect offenses committed, prosecutions begun, under the terms hereof or under the terms of any law of which this Act or any part thereof is amendatory, or any such offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense. This Section is cumulative of other provisions of this Act.

**Severability**

Sec. 5. If any article, section, subsection, sentence, clause, or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

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

**Allocations and appropriations**

Sec. 6. Wherever by virtue of this Act any part of the tax is allocated or appropriated to the collection agency of the State collecting such tax, such allocation is made subject to appropriation by the Legislature; and in case the Legislature should appropriate such funds or any part thereof

such appropriation shall be in lieu of the percentage allocated to the Department and the Department shall have no right or authority to expend the remainder of such funds. This provision shall take precedence over any other provision of this Act in conflict herewith.

#### Existing taxes

Sec. 7. Nothing in this Act shall repeal or reduce the rate of any taxes or the levy of any taxes heretofore provided by law; the purpose of this Act being to levy and have collected additional taxes, in addition to all other taxes, for the purpose of supplying funds to the State Hospital Fund. It is specifically provided and enacted that anything in this Act which repeals any law levying taxes, or which repeals or reduces the rate or levy of any taxes now levied, is void and of no force or effect; and such pre-existing law which might be so affected, is declared to be and shall be in full force and effect the same as though this Act had never been enacted. This paragraph is paramount and shall control over any other portion of this Act, anything in this Act to the contrary notwithstanding.

This Act is cumulative of all other laws of this State.

#### Penalties, fines, forfeitures and offenses; cumulative character; conflicts

Sec. 8. All penalties, fines, forfeitures or penal offenses provided in this Act, as to the same offense, shall be cumulative of one another and of any other fines, penalties, forfeitures or penal offenses provided by any other law of this State applicable to such offense.

Should any such fines, penalties, forfeitures, or penal offenses be in conflict so that such could not be cumulative as above provided, then that law or part of the law containing the provision for the highest penalty in dollars shall be effective and apply as to each such offense, and that law or part of the law containing the provision for the highest fine in dollars (where a fine alone is provided for) shall be effective and apply to each such offense, and in case of forfeiture that law or part of the law containing a provision for the most onerous forfeiture shall be effective and apply to each such offense, and in case of penal offenses containing a provision providing for imprisonment, that law or part of the law containing the provision for the longest maximum imprisonment shall be effective and apply to each such offense; and in each such instance, the lesser fine, penalty, forfeiture, penal offense or punishment shall be suspended.

#### Reports, rules and regulations

Sec. 9. Any officer or agency of government collecting or charged with the enforcement of the collection of any tax levied by this Act is authorized and empowered hereby to prescribe the form of any report necessary in connection therewith. Such officer or agency is further authorized and empowered to combine any reports required or necessary under this Act with any reports required or necessary in connection with the reporting on or the collection of any other taxes levied by law; or to require supplements to reports now required by law in lieu of reports called for by this Act.

And in addition thereto and not limited by the above, any such officer or agency shall have the power to establish and promulgate such rules and regulations and require such reports and information in connection with such taxes and collection thereof as may be deemed necessary.

Wherever this Act requires reports to be made to an officer, agency or department of the government relative to a tax levied herein, and other laws of this State require a report to be made to the same officer, agency or department, at the same time, containing the same information, and covering the same period of time as required in this Act, such reports may

be combined by the parties reporting so as to avoid filing of duplicate reports. Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XX.

<sup>1</sup> Arts. 3196b, 4769½, 7047, subd. 41.a(a-1), 7047b, 7047k-1, 7047l, 7047m, 7047n, 7047o, 7057a, 7060½, 7064a-1, 7064b, 7064½, 7066c, 7070A, 7084; Vernon's Ann.P.C. arts. 666-21½, 666-21a, 667-23A, 1111d.

Emergency. Effective Feb. 28, 1950.

## CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art.		7064a-1. Additional tax on life, accident and health insurance organizations [New].
7060½.	Additional tax on gas, electric, and water works companies [New].	7066c. Motor bus companies, motor carriers and contract carriers [New].
7060b.	Servicing or testing oil or gas wells [New].	7070a. Telephone companies; additional tax [New].
7064½.	Additional tax on insurance companies [New].	
7064a.	Tax on domestic life, accident and health insurance organizations [New].	

### Art. 7060½. Additional tax on gas, electric, and water works companies

In addition to all other taxes, each individual, company, corporation, or association, owning, operating, managing, or controlling any gas, electric light, electric power, or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power, or water, shall make quarterly, on the first day of April, July, and October of 1950, and on the first day of January, April, and July of 1951, a report to the Comptroller under oath of the individual, or of the president, treasurer, or superintendent of such company, or corporation, or association, showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power, or water for the quarter next preceding. Said individual, company, corporation, or association, at the time of making said report for any such incorporated town or city of more than one thousand (1,000) inhabitants, and less than two thousand, five hundred (2,500) inhabitants, according to the last Federal Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to ten per cent (10%) of forty-four hundredths (.44) of one per cent (1%) of said gross receipts, as shown by said report; and for any incorporated town or city of more than two thousand, five hundred (2,500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to ten per cent (10%) of eighty-one hundredths (.81) of one per cent (1%) of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to ten per cent (10%) of one and five thousand one hundred twenty-five ten-thousandths per cent (1.5125%) of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power, or water works, or

water and light plant, within this State, owned and operated by any city or town, nor to any county or water improvement or conservation district.

Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation, or association, and distributed by another, the tax shall be paid by the distributor alone.

This tax is levied for the period from the effective date of this Section through August 31, 1951; and the tax to be paid on the report as of July 1, 1951, as an occupation tax for July and August, 1951, shall be two-thirds ( $\frac{2}{3}$ ) of the amount it would be for a full quarter. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. V, § 1.

Section 2 of Art. V of the act of 1950 read as follows: "Section 1 of this article shall become effective on the first day of the first month after the effective date [Feb. 28, 1950] of this Act."

#### Art. 7060b. Servicing or testing oil or gas wells

Section 1. (a) The term "person" shall for the purpose of this Article mean and include individuals, partnerships, firms, joint stock companies, associations, and corporations.

(b) In addition to all other taxes, every person in this State engaged in the business of furnishing any service or performing any duty for others for a consideration or compensation, with the use of any devices, tools, instruments or equipment, electrical, mechanical, or otherwise, or by means of any chemical, electrical, or mechanical process when such service is performed in connection with the cementing of the casing seat of any oil or gas well or the shooting or acidizing the formations of such wells or the surveying or testing of the sands or other formations of the earth in any such oil or gas wells, shall report on the twentieth of each month and pay to the Comptroller, at his office in Austin, Texas, an occupation tax equal to ten per cent (10%) of two and two-tenths per cent (2.2%) of the gross amount received from said service furnished or duty performed, during the calendar month next preceding. The said report shall be executed under oath on a form prescribed and furnished by the Comptroller.

Sec. 2. A complete record of the business transacted, together with any other information the Comptroller may require shall be kept by each person furnishing any service or performing any duty subject to said tax, which said records shall be kept for a period of two (2) years, open to the inspection of the Comptroller of Public Accounts or the Attorney General of this State, or their authorized representatives. The Comptroller shall have the authority to adopt rules and regulations for the enforcement of this Article and the collection of the tax levied herein.

Sec. 3. If any person shall violate any provision of this Article, he shall forfeit to the State of Texas, as a penalty, the sum of not less than Twenty-five Dollars (\$25), and not more than Five Hundred Dollars (\$500) for each violation, and each day's violation shall constitute a separate offense, and in addition thereto delinquent taxes shall draw a penalty equal to one per cent (1%) per month from due date. The State shall be secured for all taxes, penalties, interests and costs due by any person under the provisions of this Article by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such lien originated upon all the property used by said person in his business.

Sec. 4. If any section, subsection, sentence, clause, or phrase of this Article, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this

Article. The Legislature hereby declares that it would have passed this Article and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Sec. 5. The tax levied by this Article XV is for the period from the effective date of Sections 1 to 5, both inclusive, through and including August 31, 1951. Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XV, § 1.

Section 6 of Art. XV of the act of 1950 read as follows: "The effective date of Sections 1 to 5, both inclusive, of this Article shall be the first day of the first month after the effective date [Feb. 28, 1950] of this Act."

Art. XV of the act of 1950 amended chapter 2 of Title 122 by adding the provisions of this article, but did not give the added provisions an article number.

#### Art. 7064 $\frac{1}{2}$ . Additional tax on insurance companies

In addition to all other taxes, there is levied hereby an additional tax for the years 1950 and 1951, on every insurance corporation, Lloyd's or reciprocals, and on any other organization or concern upon which a tax is levied by Article 7064, Revised Civil Statutes of Texas, 1925, as amended.

The tax shall be paid at the same time, in the same manner, and subject to all the same terms, conditions, obligations and penalties as is provided for the payment and collection of the tax levied in the aforesaid Article 7064.

The tax hereby levied for the year 1950, shall be ten per cent (10%) of three-fourths ( $\frac{3}{4}$ ) of the amount of tax levied and due for the calendar year 1950 under the aforesaid Article 7064. The tax hereby levied for 1951 shall be two-thirds ( $\frac{2}{3}$ ) of ten per cent (10%) of the amount of tax levied and due for the calendar year 1951 under the aforesaid Article 7064. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XVII, § 1.

Emergency. Effective Feb. 28, 1950.

#### Art. 7064a. Tax on domestic life, accident and health insurance organizations

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) organized under the laws of this State and 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 or on 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 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, 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 (1) occupation, shall pay an annual tax of one per cent (1%) 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; provided, however, that all such insurance companies whose gross premium receipts are less than Four Hundred and Fifty Thousand Dollars (\$450,000) for the preceding year ending December 31st, wher-

ever 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, and provided further that the amount of all examination and valuation fees paid in such taxable year to or for the use of the State of Texas by any insurance organization hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance organization for such taxable year. 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 (1) 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 31st, 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, organized under the laws of this State, except, and only except unemployment 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. Acts 1949, 51st Leg., p. 1365, ch. 620, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

Sections 2-5 of the Act of 1949, read as follows:

"Sec. 2. This Act shall apply to the premiums collected during 1949 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 1948 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. House Bill No. 23, known as Chapter 279, Page 442, Acts of the Regular



Session of the Forty-ninth Legislature (known as Article 4769a, Vernon's Annotated Civil Statutes) is hereby repealed in so far as it applies to any group of individuals, society, association, or other corporation organized under the laws of this State except for the continuing obligation of any such insurance organization for the payment of any and all taxes that have accrued under the provisions and said House Bill No. 23, known as Chapter 279, Page 442, Acts of the Regular Session of the Forty-ninth Legislature. This Act shall be cumulative of all other laws and

shall repeal any other law only in so far as said law shall levy any tax on any of the insurance organizations affected by this Act, or otherwise conflict with this Act, except as provided for 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."

#### Art. 7064a—1. Additional tax on life, accident and health insurance organizations

In addition to all other taxes, there is levied hereby an additional tax for the years 1950 and 1951, on every group of individuals, society, association, or corporation upon which a tax is levied by Chapter 620, Acts, Regular Session, Fifty-first Legislature.<sup>1</sup>

The tax shall be paid at the same time, in the same manner, and subject to all the same terms, conditions, obligations and penalties as is provided for the payment and collection of the tax levied in the aforesaid Chapter 620, Acts, Regular Session, Fifty-first Legislature.

The tax hereby levied for the year 1950, shall be ten per cent (10%) of three-fourths (3/4) of the amount of tax levied and due for the calendar year 1950 under the aforesaid Chapter 620, Acts, Regular Session, Fifty-first Legislature. The tax hereby levied for 1951 shall be two-thirds (2/3) of ten per cent (10%) of the amount of tax levied and due for the calendar year 1951 under the aforesaid Chapter 620, Acts, Regular Session, Fifty-first Legislature. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XVII, § 2.

<sup>1</sup> Arts. 7064a, 4769a note.

Emergency. Effective Feb. 28, 1950.

#### Art. 7066c. Motor bus companies, motor carriers and contract carriers

Section 1. (a) In addition to all other taxes, each individual, partnership, company, association, or corporation doing business as a "motor bus company" as defined in Chapter 270, Acts, Regular Session of the Fortieth Legislature, as amended by the Acts of 1929, First Called Session of the Forty-first Legislature, Chapter 78,<sup>1</sup> or as "motor carrier" or "contract carrier" as defined in Chapter 277, Acts, Regular Session of the Forty-second Legislature,<sup>2</sup> over and by use of the public highways of this State, shall make quarterly on the first day of April, July and October of 1950, and on the first day of January, April and July of 1951, a report to the Comptroller, under oath, of the individual, partnership, company, association, or corporation by its president, treasurer, or secretary, showing the gross amount received from intrastate business done within this State in the payment of charges for transporting persons for compensation and any freight or commodity for hire, or from other sources of revenue received from intrastate business within this State during the quarter next preceding. Said individual, partnership, company, association, or corporation at the time of making said report, shall pay to the State Treasurer an occupation tax for the quarter beginning on said date equal to ten per cent (10%) of two and two-tenths per cent (2.2%) of said gross receipts, as shown by said report. Provided, however, carriers of persons or property who are required to pay an intangible assets tax

under the laws of this State, are hereby exempted from the provisions of this Article of this Act.

(b) It is further provided that individuals, partnerships, companies, associations, or corporations engaged exclusively in the business of transporting logs or timber in its natural state, are hereby exempted from the provisions of this Article of this Act levying an occupational tax upon the gross receipts; provided that if this Act or any section, subsection, sentence, clause, or phrase thereof is held unconstitutional or invalid by reason of the inclusion of this subsection, the Legislature hereby declares that it would have passed this Act and any such section, subsection, sentence, clause, or phrase thereof without this subsection.

(c) The tax herein levied is in addition to any other fees and ad valorem taxes otherwise assessed.

(d) This Article XIII shall cover, the period beginning with the effective date of this Section and terminating August 31, 1951; and the tax to be paid on the report required to be filed as of July 1, 1951, shall be for only two-thirds (2/3) of a quarter. Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XIII, § 1.

<sup>1</sup> Art. 911; Vernon's Ann.P.C. art. 1690a.

<sup>2</sup> Art. 911b; Vernon's Ann.P.C. art. 1690b.

Section 2 of Art. XIII of the act of 1950 read as follows: "Section 1 of this Article shall become effective on the first day of the first month after the effective date [Feb. 28, 1950] of this Act."

#### Art. 7070a. Telephone companies; additional tax

In addition to all other taxes, each individual, company, corporation, or association owning, operating, managing, or controlling any telephone line or lines, or any telephones within this State and charging for the use of same, shall make quarterly, on the first day of April, July, and October of 1950, and on the first day of January, April, and July of 1951, a report to the Comptroller, under oath of the individual, or of the president, treasurer, or superintendent of such company, corporation, or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and associations, at the time of 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 ten per cent (10%) of one and one-half per cent (1½%) 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 ten per cent (10%) of one and three-fourths per cent (1 ¾%) 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 ten per cent (10%) of 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. Nothing herein shall apply to any telephone line or lines owned and operated by a cooperative, non-profit, membership corporation.

This tax is levied for the period from the effective date of this Section through August 31, 1951; and the tax to be paid on the report as of July 1, 1951, as an occupation tax for July and August, 1951, shall be two-thirds ( $\frac{2}{3}$ ) of the amount it would be for a full quarter. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. IV, § 1.

Section 2 of Art. IV of the act of 1950 read as follows: Section 1 of this Article shall become effective on the first day of the first month after the effective date [Feb. 28, 1950] of this Act."

**Art. 7083a. Allocation of revenue derived from certain occupations and gross receipts taxes; appropriations and allocations for certain funds; construction of farm to market roads**

(4-a) After the above allocations and payments have been made from such Clearance Fund, except that the allocations in Section 4-b of this Act, as provided for in Senate Bill No. 287, Acts of the 51st Legislature, shall be made before those provided for in this section, beginning with the fiscal year, September 1, 1949, and annually thereafter, there is hereby appropriated, allocated, transferred and credited to a special fund to be known as the Foundation School Fund, such an amount as is determined by the Foundation School Fund Budget Committee, which is hereby created. The membership of said Committee shall be composed of the State Commissioner of Education, State Auditor and State Comptroller of Public Accounts.

On or before the first day of November, next preceding each Regular Session of the Legislature, said Committee shall determine and certify to the State Comptroller of Public Accounts the calculated amount to be placed in the Foundation School Fund for the ensuing biennium for the purpose of financing a foundation school program as defined in the Foundation School Program Act, except that for the biennium beginning September 1, 1949; said Committee shall make such certification to the State Comptroller within thirty (30) days after the effective date of this Act. All monies allocated and appropriated from the Clearance Fund to the Foundation School Fund shall be paid into said Fund in installments, such installments to be monthly during the first nine (9) months of each fiscal year, so that the total amount or approximately the total amount shall be paid into said Fund by May 1st of each fiscal year; provided that in addition to the funds transferred from the Clearance Fund to the Foundation School Fund, there shall also be deposited to the credit of the Foundation School Fund all money received from the Federal Government as reimbursement for expenditures already incurred, or any other agency, which is to be used in supplementing the salaries of vocational and special service public school personnel.

Said Foundation School Fund Budget Committee is authorized to modify from time to time during the biennium, the estimate of the funds required for the Foundation School Fund, and in the light of any revised estimate or estimates made by said Committee during the biennium, the State Comptroller shall increase, diminish or suspend the further payment or payments from the Clearance Fund to the Foundation School Fund, provided that, by the close of each fiscal year there shall have been paid from the Clearance Fund to the Foundation School Fund such an amount as may be needed to pay all approved grants in full. Warrants for all money expended from the Foundation School Fund shall be approved by the State Commissioner of Education and transmitted by him to the treasurers of depositories of school districts to which grants are made in the same manner as warrants for state apportionment are now transmitted. Nothing in this Act shall be construed to affect allocation of funds for Vocational Education, as provided by statutes now in effect,

from the Federal Government to the State. Provided that no provision of this Act shall be interpreted inimically to the status that was heretofore enjoyed by the private or parochial schools operating in the State of Texas that they, the graduates and staff, shall receive credit as in the past upon their capacities to meet the requirements of the high school. As amended Acts 1949, 51st Leg., p. 647, ch. 335, § 1.

Emergency. Effective June 8, 1949.

Section 2 of the amendatory Act of 1949, provided that any law or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict. If any clause, sentence, paragraph, or sec-

tion of this Act is declared invalid or unconstitutional by any Court of competent jurisdiction, the remainder of this Act shall nevertheless remain in full force and effect.

(4-b). After the above allocations and payments have been made from such Clearance Fund, beginning with the fiscal year September 1, 1949, and annually thereafter, there is hereby appropriated, allocated, transferred, and credited, to a fund to be known as the Farm-to-Market Road Fund of the State Highway Department of the State of Texas the sum of One Million Two Hundred Fifty Thousand (\$1,250,000.00) Dollars per month for the construction of Farm-to-Market Roads by the State Highway Department within the State of Texas. The transfer, allocation, and payment herein provided shall be made on the first day of each successive month or as funds therefor become available.

The State Highway Department shall use the funds herein made available for the construction of Farm-to-Market Roads, meaning roads in rural areas including feeder roads, secondary roads, school bus routes, rural mail routes, milk routes, etc., and not a part of the designated State Highway System or the designated Primary Federal Aid Highway System.

These funds shall be expended on a system of roads selected by the State Highway Department after consultation with the County Commissioners Courts of the counties of Texas relative to the most needed unimproved rural roads in the counties involved. The selections shall be made in a manner to insure equitable and judicious distribution of funds and work among the several counties of the state.

The general characteristics of the roads to be selected are as follows:

(1). The roads shall not be potential additions to the Federal Aid Primary Highway System;

(2). The roads shall serve rural areas primarily and shall connect farms, ranches, rural homes and sources of natural resources such as oil, mines, timber, etc., and/or water loading points, schools, churches and points of public congregation, including community developments and villages;

(3). The roads shall be capable of assisting in the creation of economic values in the areas served;

(4). The roads shall preferably serve as public school bus routes, or rural free delivery postal routes, or both;

(5). The roads shall be capable of early integration with the previously improved Texas Road System and at least one end should connect with a road already or soon to be improved on the State System of Roads.

The above allocation shall be made irrespective of any other subsection of this section of this Article. Added Acts 1949, 51st Leg., p. 85, ch. 51, § 1.

Emergency. Effective March 24, 1949.

Section 2 of the act of 1949 read as follows: "Any law or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict. If any clause, sentence, paragraph, or section

of this Act is declared invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Act shall nevertheless remain in full force and effect."

**CHAPTER THREE—FRANCHISE TAX****Art.**

7084a. Renumbered art. 7085.  
7084½. Additional franchise tax [New].  
7085. Closed state banks [New].  
7089a-7089h. Repealed.

**Art.**

7090. Lien for taxes and penalties [New].  
7092a. Forfeiture upon failure to revive  
right to do business [New].

**Art. 7084. Amount of tax**

(1) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas, or doing business in Texas, shall, on or before May first of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the outstanding capital stock, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures (outstanding bonds, notes and debentures shall include all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue, and all such instruments which bear a maturity date of less than one (1) year from date of issue which represent indebtedness which has remained continuously outstanding for a period of one (1) year or more from date of inception whether or not said indebtedness has been renewed or extended by the issuance of other evidences of the same indebtedness to the same or other parties, and it is further provided that this term shall not include instruments which have been previously classified as surplus), as the gross receipts from its business done in Texas bears to the total gross receipts of the corporation from its entire business, which tax shall be computed on the basis of One Dollar (\$1) per One Thousand Dollars (\$1,000) or fractional part thereof; provided, that such tax shall not be less than Twenty Dollars (\$20) in the case of any corporation, including those without capital stock, and provided further that the tax shall in no case be computed on a sum less than the assessed value, for State ad valorem tax purposes, of the property owned by the corporation in this State. Capital stock as applied to corporations without capital stock shall mean the net assets.

(2) Corporations, other than those enjoying the use of public highways by virtue of a certificate of public convenience and necessity granted by the Railroad Commission of Texas, which are required by law to pay annually a tax upon intangible assets, and corporations owning or operating street railways or passenger bus systems in any city or town and suburbs thereof, and corporations organized to and maintaining or owning or operating electric interurban railways, shall be required to hereafter pay a franchise tax equal to one fifth ( $\frac{1}{5}$ ) of the franchise tax herein imposed against all other corporations under Section (1) herein.

(3) Except as provided in preceding Clause (2), all public utility corporations, which shall include every such corporation engaged solely in the business of a public utility as defined by the laws of Texas whose rates or services are regulated, or subject to regulation in whole or in part, by law, shall pay a franchise tax as provided in this Article, except the same shall be based on that proportion of the issued and outstanding capital stock, surplus, and undivided profits, which the gross receipts of the business of said corporation done in this State bears to its total gross receipts, instead of the gross assets; and in lieu of the rate hereinbefore prescribed said tax shall be computed on the basis of One Dollar (\$1) per One Thousand Dollars (\$1,000) or fractional part thereof.

For the purpose of computing the tax of corporations issuing no par stock, such stock shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such stock shall furnish the Secretary of State with the same information now required of domestic corporations issuing such stock.

The tax levied herein shall in no case be computed on a sum less than the assessed value, for State ad valorem tax purposes, of the property owned by the corporation in this State.

(4) Corporations engaged partly in the business of a public utility as defined in Clause (3) and partly in business embraced in Clause (1) shall pay the franchise tax in the following manner; as to those businesses which come under Clause (1) the tax shall be computed as provided in Clause (1) on that proportion of the entire taxable capital under said Clause (1) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and to those businesses which come under Clause (3) the tax shall be computed as provided in Clause (3) on that proportion of the entire taxable capital under said Clause (3) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be for the same period used in computing the proportion of Texas taxable capital under Clauses (1) and (3).

(5) Corporations which are now required to pay a separate franchise tax for each purpose or business authorized by their charters, shall hereafter pay only the tax provided hereunder for one purpose, and one-fourth ( $\frac{1}{4}$ ) of such amount for each additional purpose named in their charters. Provided however, this Article shall not apply to corporations organized under the Electric Cooperative Corporation Act. Provided however, this Article does not amend, alter, or change in anywise any provision of Chapter 86, page 161, Forty-fifth Legislature, Acts 1937,<sup>1</sup> and provided further that nothing in this Article shall repeal any total exemption from franchise taxes now provided by law. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 1.

<sup>1</sup> Article 1528b.

Emergency. Effective July 4, 1949.

Sections 13 and 14 of the amendatory Act of 1949, 51st Leg., p. 975, ch. 536, read as follows:

"Sec. 13. 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. 14. All of Section 4, Chapter 68, Acts of the Forty-first Legislature, Fifth Called Session [art. 7089a], and all of Section 1, Chapter 318, Acts of the Forty-eighth Legislature, Regular Session [arts. 7089b-7089h] and all laws or parts of laws in conflict with any of the provisions of this Act are hereby repealed,<sup>99</sup> but where

the same are not in conflict, the provisions of this Act shall be cumulative of existing laws. Provided, however, that all taxes and penalties, 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 and penalties 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."

#### Art. 7084a. Renumbered art. 7085.

This article, Acts 1927, 40th Leg., p. 294, ch. 208, § 1, was designated art. 7085, by Acts 1949, 51st Leg., p. 975, ch. 536, § 2.

**Art. 7084½. Additional franchise tax**

In addition to all other taxes, there is hereby levied an additional franchise tax of ten per cent (10%) of all franchise taxes levied by and due and payable under Article 7084, Revised Civil Statutes, 1925, as heretofore amended, upon the privilege of doing business in Texas in corporate form from May 1, 1950, to April 30, 1951, and an additional franchise tax of one-third (1/3) of ten per cent (10%) of all franchise taxes levied by and due and payable under said Article 7084 for the privilege of doing business in Texas in corporate form from May 1, 1951, to August 31, 1951. The tax levied herein for the period from May 1, 1950, to April 30, 1951, shall be paid on or before September 1, 1950. The tax levied herein for the period from May 1, 1951, to August 31, 1951, shall be paid at the same time, in the same manner, and subject to the same terms, penalties and conditions as the franchise tax that will become due under the provisions of the aforesaid Article 7084 for the full year period of May 1, 1951, to April 30, 1952.

In order to effect collection of the tax herein imposed for the period beginning May 1, 1950, and ending April 30, 1951, the Secretary of State shall, as soon after the passage of this Act as is feasible, mail to all corporations required to pay said additional tax such additional or supplemental report forms as he may deem necessary for the collection of said additional tax; and he shall also mail notice to the effect that for failure to file the required report and for failure to pay the additional tax for the period beginning May 1, 1950, and ending April 30, 1951, the right of such corporations to do business in Texas will be forfeited on September 1, 1950, and will subject any such defaulting corporations to the same penalties and conditions provided by Articles 7089, 7091 and 7092, Revised Civil Statutes of Texas of 1925, as amended, the dates of accrual of such penalties and conditions, however, to be after September 1, 1950, and on and after any consummation of forfeiture of the right to do business.

The taxes levied by this Article are for the aforesaid periods of time, and no corporation, domestic or foreign, shall be required to pay the additional taxes levied by this Article for the privilege of doing business in Texas before May 1, 1950, or after August 31, 1951. No foreign corporation shall be required to pay a greater tax hereunder than it would pay if it were a domestic corporation.

The Secretary of State shall have the authority to promulgate such rules and regulations as he may deem necessary for the enforcement of this Article and the collection of the tax levied hereby. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. VIII, § 1.

Emergency. Effective Feb. 28, 1950.

**Art. 7085. Closed state bank**

No franchise tax shall be assessed against a State Bank after it has closed its doors and has gone into the hands of the Banking Commissioner for liquidation according to law, nor shall any such corporation be liable for any franchise tax while in the hands of the Commissioner for liquidation. The failure of the Commissioner to pay franchise taxes for any bank in his hands for liquidation shall not operate to revoke or forfeit the charter of such corporation.

Provided, that after such liquidation should there be any funds left that would go to the stockholders, then all past due franchise taxes and penalties shall be paid before distributing such funds, if any, to outstanding stockholders.

Provided further, that the Banking Commission of Texas shall not be required to file with the Secretary of State any reports for the purpose of assessing franchise taxes, as provided in Article 7089, Revised Civil Statutes 1925. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 2.

This article, formerly numbered 7084a, 7085, was combined with art. 7084, by Acts was designated art. 7085, by Acts 1949, 1930, 41st Leg., 5th C.S., p. 220, ch. 68, § 2. 51st Leg., p. 975, ch. 536, § 2. Former art.

#### Art. 7086. 7395 Initial tax to be paid

(1) Whenever a private domestic corporation is chartered in this State such corporation shall be required to pay in advance to the Secretary of State as its franchise tax from that time down to and including the thirtieth day of April next following, only such proportionate part of its initial franchise tax, as hereinafter prescribed as the period of time between the date of filing of its articles of incorporation and the first day of May following, bears to a calendar year. The initial franchise tax to be paid by any private domestic corporation chartered in this State shall be based upon its outstanding capital stock and surplus, if any, plus all outstanding evidences of indebtedness as defined by Article 7084, Revised Civil Statutes of Texas, 1925, as amended, except that such initial franchise tax to be paid by any public utility corporation as defined in Article 7084 shall be based upon its issued and outstanding capital stock and surplus, if any, and each initial tax shall be computed at the rate of tax prescribed in said Article 7084. Wherever a foreign corporation applying for a permit has theretofore done no business in Texas, such initial tax shall not be payable until the end of one (1) year from the date of such permit, at which time the tax shall be computed according to first year's business as prescribed by Article 7084, Revised Civil Statutes of Texas, as amended; and, at the same time, such corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including May first following.

Where such foreign corporation's first permit year ends between January first and May first, there shall also be computed and paid an additional year's tax for the year beginning May first following the end of the first permit year, which tax shall be computed from the data contained in the first report filed by such corporation.

(2) Whenever a foreign corporation applying for a permit has theretofore done no business in Texas, such corporation at the time of filing its application for such permit with the Secretary of State shall deposit with the Secretary of State the sum of Five Hundred Dollars (\$500) which sum shall be deposited by the Secretary of State in a trust fund to be held by the Secretary of State during the time such foreign corporation is engaged in doing business in this State and shall pay all filing fees and franchise taxes which may be due by such foreign corporation according to the provisions of this Chapter, provided, however, that should the right of said corporation to do business in this State be forfeited or its permit forfeited as provided in this Chapter, the Secretary of State shall apply said sum or any part thereof so deposited, to the payment of all fees and franchise taxes and penalties which may become due by such corporation to the State of Texas. After such corporation has ceased to do business in this State either by the surrender or the forfeiture of its permit as provided by the laws of the State of Texas, such deposit or the balance thereof, if any, shall be paid by the Secretary of State to the legal agent, designated in conformity with Article 7089, Revised Civil Statutes of Texas, 1925, of such foreign corporation in this State.

(3) Any foreign corporation applying for a permit to do business in this State, at its option and in lieu of the deposit required under sub-



section (2) of this Article, may make, execute, and deliver to the Secretary of State its bond payable to the Secretary of State in the principal amount of such required deposit with a corporate surety chartered by this State or holding a permit authorizing it to do business in this State conditioned upon the payment when due of all fees and/or franchise taxes to become due and owing to the State of Texas under the provisions of this Chapter, which bond shall be maintained in full force and effect as long as such corporation shall be engaged in business in the State of Texas and for a period of one (1) year thereafter. Should such corporation forfeit its right to do business as provided in this Chapter the Attorney General shall bring suit upon such bond in a court of competent jurisdiction in Travis County, Texas, against the surety or sureties thereon for the amount of such delinquent fees, franchise taxes, and penalties due and owing the State of Texas, provided, that such suit shall be in addition to and cumulative of all other remedies provided by this Chapter. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 3.

#### Art. 7087. 7396 Reports required

To determine the amount of any franchise tax payment required by this Chapter of any domestic corporation which may be hereafter chartered, or of any foreign corporation which may hereafter apply for a permit to do business within this State, and also to determine the correctness of any report which is provided for in this Chapter, the Secretary of State may, whenever he deems it necessary or proper to protect the interests of the State, require any one (1) or more of the officers of such corporations to make and file in the office of the Secretary of State an affidavit setting forth fully the facts concerning the amount of the surplus and undivided profits and outstanding evidences of indebtedness respectively, if any, of such domestic or foreign corporation; and until the Secretary of State shall be fully satisfied as to the amount of such surplus and undivided profits, respectively, if any, he shall not file the articles of incorporation of such proposed domestic corporation, or issue such permit, or accept such franchise tax. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 4.

#### Art. 7089. Report of corporation

(1) Except as herein provided all corporations required to pay an annual franchise tax shall, between January first and March fifteenth of each year, make a sworn report in duplicate to the Secretary of State, on forms furnished by that officer, showing the condition of such corporation on the last day of the preceding fiscal year. The Secretary of State may for good cause shown by any corporation extend such time to any date up to May first. Said report shall give the cash value of all gross assets of the corporation, the amount of its authorized capital stock, the capital stock actually subscribed and the amount paid in, the surplus and undivided profits or deficit, if any, the amount of mortgage, bonded and current indebtedness, the amount and date of payment of the last annual, semi-annual, quarterly, or monthly dividend, the assessed value, for State ad valorem purposes of all property of the corporation, real, personal or mixed, owned by the corporation in this State and the county in which assessed for such purposes, the amount of all taxes paid, or due and payable to the State of Texas, or to any county, city or town, school district, road district, or other taxing subdivision of Texas, for the preceding tax year, the total gross receipts of such corporation from all sources and the gross receipts from its business done in Texas for the fiscal year preceding, with a detailed balance sheet and income and profit and loss

statement in such form as the Secretary of State may prescribe. Where a foreign corporation has not heretofore done business in this State and is granted a permit to do business in Texas, it shall file its first report as of one (1) year from the date such permit was granted, within ninety (90) days of such date. Any corporation which shall fail or refuse to make its report when due shall be assessed a penalty of ten per cent (10%) of the amount of franchise tax due by such corporation, which shall be payable to the Secretary of State, together with its franchise tax. Said report shall be deemed to be privileged and not for the inspection of the general public, but a bona fide stockholder owning one (1) or more shares of the outstanding stock of any corporation, may examine such returns upon presentation of evidence of such ownership to the Secretary of State. No other examination, disclosures, or use, shall be permitted of said report except in the course of some judicial proceedings in which the State or any bona fide stockholder is a party or in a suit by the State to cancel the permit or forfeit the charter of such corporation or to collect penalties for a violation of the laws of this State, or for information of any officer of this State charged with the enforcement of its laws, including the Comptroller of Public Accounts, State Auditor and the State Tax Commissioner; provided that the Secretary of State, in his discretion, upon good cause shown, may disclose to any interested person the names of the officers and directors and agents for service and the principal office and place of business of any corporation as disclosed by the franchise tax reports. Each report shall be sworn to by either the president, vice-president, secretary, treasurer or general manager, and shall give the name and address of each officer and director. In order to provide a means for service of process to collect any franchise tax or penalties, and in all other cases, each corporation, either domestic or foreign, shall, for such purpose, designate some person residing in this State whose name and address shall be given in each report. The forms hereinbefore prescribed shall contain such other information as the Secretary of State may require; and the Secretary of State shall have the power and authority to make and publish rules and regulations, not inconsistent with any existing laws or with the Constitution of this State or of the United States, for the enforcement of the provisions of this Article. The Secretary of State may require any corporation to furnish such additional information from its books and records as may be necessary in determining the amount of taxes that may be due hereunder. In case such additional information required by the Secretary of State be incomplete, or should the Secretary of State have reason to believe that the information as furnished to him by any corporation either in the franchise tax report or otherwise is incorrect, the Secretary of State or his authorized representative or the State Auditor or his authorized representative shall have full and complete authority to investigate and inquire into and examine the books and records of any such corporation for the purpose of ascertaining the correctness thereof.

"Any foreign corporation doing business in Texas under a permit granted under the laws of this State, or any officer or agent thereof, or any domestic corporation which shall fail or refuse to permit the Secretary of State, or his authorized representative, or the State Auditor or his authorized representative to examine its said books and records, whether the same be situated within this or any other State within the United States, shall thereby forfeit its right to do business in this State; and its permit or charter shall be cancelled or forfeited. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 5.

**Arts. 7089a-7089h. Repealed. Acts 1949, 51st Leg., p. 975, ch. 536, § 14. Eff. July 4, 1949**

From Acts 1930, 41st Leg., 5th C.S., p. 220, ch. 63, § 4 and Acts 1943, 48th Leg., p. 476, ch. 318, § 1.

**Art. 7090. Lien for taxes and penalties**

The State shall have a prior lien on all corporate property for all franchise taxes and penalties. At any time after any corporation, domestic or foreign, shall have its right to do business forfeited as provided in this Chapter, the Secretary of State shall file and record with the Clerk of the County wherein the principal place of business of said corporation is located as shown by its Articles of Incorporation or amendments thereto, or the permit of said corporation, a notice of the taxes and penalties accruing under this Chapter and the liens securing the same on a form prepared or approved by the Attorney General of the State of Texas, showing the name of the corporation owing such taxes and penalties, including the franchise taxes then due and owing and calling attention to the possible additional taxes and penalties which might accrue in the future under the terms of this Chapter; and the County Clerk of such County is hereby authorized to and shall file, record and index such notice provided for both as a chattel mortgage and as a mortgage on real estate in accordance with the Statutes in such cases made and provided. When such notice has been filed, recorded and indexed, the same shall be and constitute notice to all parties dealing with the real and personal property of such corporation wherever situated, of the taxes and penalties then accrued and to accrue in the future and of the liens herein granted the State of Texas. The Secretary of State shall also file and record with the Clerk of any County in which he has reason to believe any corporation owing franchise taxes and penalties has real or personal property, a copy of said notice and it shall be the duty of the County Clerk of such County to file, record and index such notice in manner and form hereinbefore provided, and when the same has been so filed, recorded and indexed, such notice shall be and constitute additional notice to all parties dealing with the real and personal property of such corporation in said County of such taxes and penalties and the liens granted the State of Texas. The Secretary of State is hereby authorized to execute and deliver (1) complete releases of the liens herein provided for on payment in full of the taxes and penalties, and (2) partial releases releasing particular property upon payment of such sum as the Secretary of State may deem adequate and proper under all circumstances. Such releases shall be on a form prepared or approved by the Attorney General of the State of Texas. No suit in any event shall be brought or instituted for the enforcement of the liens granted the State of Texas by this Chapter unless the same shall be instituted within two (2) years from and after the time the corporation owing such taxes and penalties shall forfeit its right to do business in this State under the provisions of this Chapter; provided, however, that nothing in this Act contained shall prevent the State of Texas from collecting or enforcing by suit or attachment at any time said franchise taxes and penalties due from the corporation owing the same. Added Acts 1949, 51st Leg., p. 975, ch. 536, § 6.

**Art. 7091. 7399 Failure to pay tax**

Any corporation, either domestic or foreign which shall fail to pay any franchise tax provided for in this Chapter when the same shall

become due and payable under the provisions of this Chapter, shall thereupon become liable to a penalty of twenty-five per cent (25%) of the amount of such franchise tax due by such corporation. If the reports required by Article 7087 or Article 7089 be not filed in accordance with the provisions of this Chapter, or if the amount of such tax and penalties be not paid in full on or before the first day of July thereafter, such corporation shall for such default forfeit its right to do business in this State; which forfeiture shall be consummated without judicial ascertainment by the Secretary of State entering upon the margin of the record kept in his office relating to such corporation, the words, "right to do business forfeited," and the date of such forfeiture. Any corporation whose right to do business shall be thus forfeited shall be denied the right to sue or defend in any court of this State, except in a suit to forfeit the charter or permit of such corporation. In any suit against such corporation on a cause of action arising before such forfeiture, no affirmative relief shall be granted to such corporation, unless its right to do business in this State shall be revived as provided in this Chapter. Each director and officer of any corporation whose right to do business within this State shall be so forfeited shall, as to any and all debts of such corporation, which shall include all franchise taxes and penalties thereon which shall become due and payable subsequent to the date of such forfeiture, and which may be created or incurred, with his knowledge, approval and consent, within this State, after such forfeiture by any such directors or officers, and before the revival of the right of such corporation to do business, be deemed and held liable thereon in the same manner and to the same extent as if such directors and officers of such corporation were partners. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 7.

#### Art. 7092. 7400 Notice of forfeiture

The Secretary of State, shall during the month of May of each year, notify each domestic and foreign corporation which may be or become subject to a franchise tax under the laws of this State, which has failed to file such report or pay franchise tax on or before the first day of May, that unless such overdue report is filed or such overdue tax together with said penalties thereon shall be paid on or before the first day of July next following, the right of such corporation to do business in this State will be forfeited without judicial ascertainment. Such notice may be either written or printed and shall be verified by the seal of the office of the Secretary of State, and shall be addressed to such corporation and mailed to the post office named in its articles of incorporation as its principal place of business, or to any other known place of business of such corporation. A record of the date of mailing such notice shall be kept in the office of the Secretary of State, and such notice and record thereof shall constitute legal and sufficient notice thereof for all purposes of this Chapter. Any corporation whose right to do business may have been forfeited, as provided in this Chapter, shall be relieved from such forfeiture by paying to the Secretary of State at any time prior to the forfeiture of the charter or the permit of such a corporation as hereinafter provided, the full amount of the franchise taxes and penalties due by it, together with an additional amount of five per cent (5%) of such taxes for each month, or fractional part of a month, which shall elapse after such forfeiture as a revival fee; provided, that such amount shall in no case be less than Five Dollars (\$5). When such taxes and all penalties and the revival fee shall be paid to the Secretary of State, he shall revive the right of the corporation to do business within this State.

by cancelling the words, "right to do business forfeited," upon his record and endorsing thereon the word, "revived," and the date of such revival. If any domestic corporation or foreign corporation whose right to do business within this State shall hereafter be forfeited under the provisions of this Chapter shall fail to pay the Secretary of State, on or before the first day of January next following such forfeiture, the amounts necessary to entitle it to have its right to do business revived under the provisions of this Chapter, such failure shall constitute sufficient ground for the forfeiture, by judgment of any court of competent jurisdiction, of the charter of such domestic corporation, or of the permit of such foreign corporation. It shall be the duty of the Secretary of State during the month of January next following such forfeiture, to certify to the Attorney General the names of all corporations, domestic and foreign, whose right to do business within this State shall have been forfeited as hereinbefore provided and upon receiving such certificate the Attorney General shall forthwith institute suits against such corporations under the provisions of Article 7095, Revised Civil Statutes of Texas. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 8.

**Art. 7092a. Forfeiture upon failure to revive right to do business**

Section 1. The charter of each corporation organized under and by virtue of the laws of the State of Texas, whose right to do business was forfeited prior to July 2, 1948, by the Secretary of State under the provisions of Article 7091, of the Revised Civil Statutes of Texas of 1925, and which has failed and refused to have its right to do business revived pursuant to the provisions of Article 7092, Revised Civil Statutes of Texas of 1925, and which fails to revive its right to do business prior to the expiration of six (6) months after the effective date of this Act, shall be forfeited, which forfeiture shall be consummated without judicial ascertainment by the Secretary of State entering upon the charter of such corporation filed in his office, the words "Charter forfeited," giving the date thereof and citing this Act as authority therefor. Provided that, within ninety (90) days after the effective date of this Act the Secretary of State shall notify each corporation which had its right to do business forfeited prior to July 2, 1948, of the provisions of this Act, and advise such corporation that unless its right to do business is revived prior to the expiration of six (6) months after the effective date of this Act, its charter will be forfeited as provided herein. Such notice shall be verified by the seal of the office of the Secretary of State, and shall be addressed to such corporation and mailed to the post office named in its Articles of Incorporation or last franchise tax report as its principal place of business. A record of the date of mailing of such notice shall be kept by the Secretary of State. Such notice and record thereof shall constitute legal and sufficient notice for the purposes of this Act. Provided, further, that all franchise taxes and penalties accruing to the State of Texas before the effective date of this Act and within six (6) months thereafter, shall be and remain valid and binding obligations due the State and all such taxes and penalties now or hereafter becoming delinquent to the State of Texas before the effective date of this Act and within six (6) months thereafter, are 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. Provided further, that this Act shall not apply to those corporations which have heretofore been dissolved in accordance with the provisions of Chapter 8, Title 32, Revised Civil Statutes of Texas, 1925.

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

Sec. 2. 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 such remaining parts of this Act and such remaining parts shall remain in full force and effect. Acts 1949, 51st Leg., p. 926, ch. 501.

Emergency. Effective June 29, 1949.

Section 3 of the Act of 1949, provided that 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.

#### Art. 7093. 7401 Foreign corporations may withdraw

Should any foreign corporation which has or may hereafter obtain a permit to do business within this State desire at any time to withdraw from doing business within this State, it may surrender such permit to the Secretary of State, who shall make or stamp such permit "surrendered," dating and signing the same officially, and shall endorse upon the record of such permit in his office the word "surrendered" and the date thereof; provided, however, that prior to the surrender of such permit such corporations shall have paid in full all franchise taxes and penalties owed by such corporation to the State of Texas. The Secretary of State shall not issue any permit to do business in this State to any foreign corporation which has forfeited its right to do business in this State, as provided for in this Chapter, prior to having surrendered its permit, unless such corporation shall pay to the Secretary of State at the time of the filing of its application for a new permit to do business within this State the amount of money which would have been due to the State of Texas as a revival fee as provided for in this Chapter for relieving such corporation from the forfeiture of its right to do business in Texas up to the date of the surrender of its permit. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 9.

#### Art. 7094. 7403 Corporations exempt

The franchise tax imposed by this Chapter shall not apply to any insurance company, surety, guaranty or fidelity company, or any transportation company, or to any corporation organized as a terminal corporation not organized for profit and having no income from the business done by it, or to any sleeping, palace car and dining car company now required to pay an annual tax measured by their gross receipts, or to corporations having no capital stock and organized for the exclusive purpose of promoting the public interest of any city or town, or to corporations organized for the purpose of religious worship or for providing places of burial not for private profit, or to corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, or for purely public charity, or to State-chartered building and loan associations. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 10; Acts 1949, 51st Leg., p. 1200, ch. 609, § 1.

Amendment by Acts 1949, 51st Leg., p. 1200, ch. 609, effective July 25, 1949.

#### Art. 7095. 7404 Attorney General to bring suit

(1) The Attorney General shall bring suit therefor against any such corporation which may be or become subject to or liable for any franchise tax or penalty under this Law; and, in case there may now be or shall hereafter exist valid grounds for the forfeiture of the charter of any domestic private corporation or the permit of any foreign corporation,

for failure to pay any franchise tax or franchise taxes or penalty or penalties to which it may have become or shall hereafter be or become subject or liable under this or former law, he shall bring suit for a forfeiture of such charter or permit; and, for the purpose of enforcing the provisions of this Chapter by civil suits, venue is hereby conferred upon the courts of Travis County, concurrently with the courts of the county in which the principal office of such corporation may be located as shown by its articles or amended articles of incorporation or permit. Such courts shall also have authority to restrain and enjoin a violation of any provision of this Chapter. In any case in which any court having jurisdiction thereof shall make and enter judgment forfeiting the charter or permit of any such corporation, the court may appoint a receiver thereof and may administer such receivership under the laws regulating receiverships.

(2) In all suits instituted against any domestic corporation under the provisions of Chapter 3, Title 122, Revised Civil Statutes of Texas, for the forfeiture of its charter and/or the recovery of franchise taxes or penalties, where the officers named in the articles of incorporation, or amendments thereto, or annual reports on file in the office of the Secretary of State, or local agent of such corporation do not reside or cannot be located in the county wherein the principal office of such corporation is located, as stated in the original articles of incorporation of said company or amendments thereto on file in the office of the Secretary of State, or where the principal office of said corporation is not maintained or cannot be found in said County, then service of process, pleadings, and other legal notices of such action may be made upon the Secretary of State of the State of Texas and the same shall be held as due and sufficient service upon such corporation. Whenever process against such corporation is served upon the Secretary of State said service may be made by delivering to the Secretary of State or to the Assistant Secretary of State, duplicate copies of such process whereupon service of such process upon such corporation shall be deemed to be complete and shall constitute valid service upon such corporation. Upon receipt of such process the Secretary of State shall forthwith forward to said corporation a copy of such process by registered mail addressed to the post office named in its Articles of Incorporation or amendments thereto as its principal place of business or to any other place of business of such corporation as shown by the records in the office of the Secretary of State; provided, however, the failure of the Secretary of State to give such notice or to mail copies of such process shall not affect the validity of said service. The certificate of the Secretary of State, under his official seal, of such service shall be competent and sufficient proof thereof. The Secretary of State shall keep a record of all process served upon him and shall record therein the time of said service and his action in respect thereto. This Act shall be cumulative of all existing Statutes. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 11.

#### Art. 7097. 7606 Corporations in process of liquidation

If a corporation is actually in process of liquidation, such corporation shall only be required to pay a franchise tax calculated upon the difference between the amount of stock actually issued and the amount of liquidating dividends actually paid upon such stock; provided, that the president and secretary of such corporation shall make affidavit as to the total amount of capital stock issued and as to the amount of liquidating dividends actually paid and that such corporation is in an actual bona fide state of liquidation.

The terms "process of liquidation" and "Actual bona fide state of liquidation" shall mean that the corporation by resolution of its board of directors, duly ratified by a majority vote of the stockholders of record thereof, has adopted and is pursuing in good faith a plan of assembling and marshalling the assets of the corporation, paying or settling with the creditors and debtors of the corporation and apportioning the remaining assets, if any, among and to the stockholders of the corporation, all in manner and form provided by the laws of Texas, thereby terminating the business of and dissolving the corporation in the manner and form provided by the laws of Texas. A copy of said plan of liquidation shall be attached to and made a part of the foregoing affidavit of the president and secretary of such corporation. As amended Acts 1949, 51st Leg., p. 975, ch. 536, § 12.

## CHAPTER 7—ASSESSMENT AND ASSESSORS

### Art. 7212. 7570, 5124 Boards may equalize

The Boards of Equalization shall have power, and it is made their official duty, to supervise the assessment of their respective counties, and, if satisfied that the valuation of any property is not in accordance with the laws of the State, to increase or diminish the same and to affix the proper valuation thereto, as provided for in the preceding Article, and when any Assessor in this State shall have furnished said Court with the rendition as provided for in the preceding Article, it shall be the duty of such Court to call before it such persons as in its judgment may know the market value or true value of such property, as the case may be, by proper process, who shall testify under oath the character, quality, and quantity of such property, as well as the value thereof. Said Court, after hearing the evidence, shall fix the value of such property in accordance with the evidence so introduced and as provided for in the preceding Article, and their action in such case or cases shall be final; provided however, that if the Commissioners Court of any county who contracts with or employs any individual, firm, or corporation to compile taxation data, the compensation of such individual, firm, or corporation may be paid on a pro rata basis from each county fund receiving any taxes derived from such valuation. As amended Acts 1949, 51st Leg., p. 1196, ch. 607, § 1.

Emergency. Effective July 25, 1949.

## CHAPTER TEN—DELINQUENT TAXES

Art.

7345e. Suits to collect delinquent taxes and partition land in aid thereof in certain counties [New].

### Art. 7345e. Suits to collect delinquent taxes and partition land in aid thereof in certain counties

Section 1. In any county wherein is located one or more tracts of land, or portions thereof, having in excess of one thousand (1,000) acres, which such tracts are owned by twenty (20) or more persons in undivided interests, and on which there are delinquent taxes owed to such county, the Commissioners Court of such county is hereby authorized to institute suits against such owners of undivided interests in such tract or tracts for the purpose of collecting such delinquent taxes, and it is expressly authorized to seek and compel a partition of



said tract or tracts between the owners thereof in order to segregate and identify the ownership for the purpose of collecting such delinquent taxes, and to employ attorneys for the purpose of instituting and prosecuting such suit or suits and to pay them such reasonable fees for such services out of the General Fund of such county as said Commissioners Court may deem advisable.

Sec. 2. After the institution of such suits the provisions of Section 15, of Article 7345b, Revised Civil Statutes of Texas as amended by the Acts of the Regular Session of the 49th Legislature, 1945, Chapter 219, shall govern the procedure in such suit, insofar as applicable, and all fees and costs therein provided for shall be in addition to the fees herein authorized for the institution of such suit or suits; provided, however, that where such fees are paid for the institution of such suit or suits the attorneys bringing such suits shall not be entitled to receive any fees under the provisions of Article 7335, Revised Civil Statutes of Texas, 1925, nor Chapter 8, Acts of the 41st Legislature, 1930, Fourth Called Session, page 9, being Article 7335a, Vernon's Annotated Civil Statutes. Acts 1949, 51st Leg., p. 754, ch. 404, as amended Acts 1950, 51st Leg., 1st C.S., p. 97, ch. 34, § 1.

Effective 90 days after March 1, 1950, date of adjournment.

Section 2 of the act of 1950 read as follows: "The provisions of this Act shall be cumulative of all existing laws providing for the collection of delinquent taxes and

the partitioning of land by suit, or otherwise, except insofar as said existing laws conflict herewith, and all laws and parts of laws in conflict herewith are hereby expressly repealed to the extent of such conflict."

## TITLE 125A—TRUSTS AND TRUSTEES

### TEXAS TRUST ACT

#### **Art. 7425b—7. Requisites of a trust**

An express trust may be created by one of the following means or methods:

A. A declaration in writing by the owner of the property that he holds it as trustee for another person, or persons, or for himself and another person or persons; or

B. A written transfer inter vivos by the owner of property to another person as trustee for the transferor or for a third person or persons; or

C. A transfer by will by the owner of property to another person or persons as trustee for a third person or persons; provided that a natural person as trustee may be a beneficiary of any such trust.

D. An appointment by a person having a power of appointment to another person as trustee for the donee of the power or for a third person; or

E. A promise by a person to another person whose rights thereunder are to be held in trust for a third person; or

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.

Provided, however, that a trust in relation to or consisting of real property shall be invalid, unless created, established, or declared:

1. By a written instrument subscribed by the trustor or by his agent thereunto duly authorized by writing;

2. By any other instrument under which the trustee claims the estate affected. Acts 1943, 48th Leg., p. 232, ch. 148, § 7.

## TITLE 126—TRUSTS—CONSPIRACIES AGAINST TRADE

#### **Art. 7426. 7796 "Trusts"**

Pooling and cooperative agreements in secondary operations for recovery of oil and gas, see art. 6008b.

## TITLE 128—WATER

## I. IRRIGATION AND WATER RIGHTS

## CHAPTER ONE—USE OF STATE WATER

## 1. PUBLIC RIGHTS

Art.

7466f. Pecos River Compact of 1948 [New].

7466g. Canadian, Red and Sabine Rivers; negotiation of interstate agreement [New].

## 2. BOARD OF WATER ENGINEERS

Art.

7467b. Abandoned channels in counties of 350,000 population [New].

## 1. PUBLIC RIGHTS

Art. 7466f. Pecos River Compact of 1948

Section 1. The Pecos River Compact entered into and signed at Santa Fe, New Mexico, on December 3, 1948, by John H. Bliss, Commissioner for the State of New Mexico, and Charles H. Miller, Commissioner for the State of Texas, and approved by Berkeley Johnson, representing the United States of America, an original counterpart of which has been deposited in the office of the Secretary of State for the State of Texas, is hereby, in all respects, ratified and confirmed, said Compact being as follows:

## PECOS RIVER COMPACT

Entered Into by the States of

NEW MEXICO

and

TEXAS

Sante Fe, New Mexico  
December 3, 1948

## PECOS RIVER COMPACT

The State of New Mexico and the State of Texas, acting through their Commissioners, John H. Bliss for the State of New Mexico and Charles H. Miller for the State of Texas, after negotiations participated in by Berkeley Johnson, appointed by the President as the representative of the United States of America, have agreed respecting the uses, apportionment and deliveries of the water of the Pecos River as follows:

## Article I

The major purposes of this Compact are to provide for the equitable division and apportionment of the use of the waters of the Pecos River; to promote interstate comity; to remove causes of present and future controversies; to make secure and protect present development within the states; to facilitate the construction of works for, (a) the salvage of water, (b) the more efficient use of water, and (c) the protection of life and property from floods.

## Article II

As used in this Compact:

(a) The term "Pecos River" means the tributary of the Rio Grande which rises in north-central New Mexico and flows in a southerly direction through New Mexico and Texas and joins the Rio Grande near the town of Langtry, Texas, and includes all tributaries of said Pecos River.

(b) The term "Pecos River Basin" means all of the contributing drainage area of the Pecos River and its tributaries above its mouth near Langtry, Texas.

(c) "New Mexico" and "Texas" mean the State of New Mexico and the State of Texas, respectively; "United States" means the United States of America.

(d) The term "Commission" means the agency created by this Compact for the administration thereof.

(e) The term "deplete by man's activities" means to diminish the stream flow of the Pecos River at any given point as the result of beneficial consumptive uses of water within the Pecos River Basin above such point. For the purposes of this Compact it does not include the diminution of such flow by encroachment of salt cedars or other like growth, or by deterioration of the channel of the stream.

(f) The term "Report of the Engineering Advisory Committee" means that certain report of the Engineering Advisory Committee dated January, 1948, and all appendices thereto; including, basic data, processes, and analyses utilized in preparing that report, all of which were reviewed, approved, and adopted by the Commissioners signing this Compact at a meeting held in Santa Fe, New Mexico, on December 3, 1948, and which are included in the Minutes of that meeting.

(g) The term "1947 condition" means that situation in the Pecos River Basin as described and defined in the Report of the Engineering Advisory Committee. In determining any question of fact hereafter arising as to such situation, reference shall be made to, and decisions shall be based on, such report.

(h) The term "water salvaged" means that quantity of water which may be recovered and made available for beneficial use and which quantity of water under the 1947 condition was non-beneficially consumed by natural processes.

(i) The term "unappropriated flood waters" means water originating in the Pecos River Basin above Red Bluff Dam in Texas, the impoundment of which will not deplete the water usable by the storage and diversion facilities existing in either state under the 1947 condition and which if not impounded will flow past Girvin, Texas.

## Article III

(a) Except as stated in paragraph (f) of this Article, New Mexico shall not deplete by man's activities the flow of the Pecos River at the New Mexico-Texas state line below an amount which will give to Texas a quantity of water equivalent to that available to Texas under the 1947 condition.

(b) Except as to the unappropriated flood waters thereof, the apportionment of which is included in and provided for by paragraph (f) of this Article, the beneficial consumptive use of the waters of the Delaware River is hereby apportioned to Texas, and the quantity of such beneficial consumptive use shall be included in determining waters received under the provisions of paragraph (a) of this Article.

(c) The beneficial consumptive use of water salvaged in New Mexico through the construction and operation of a project or projects by the United States or by joint undertakings of Texas and New Mexico, is hereby apportioned forty-three per cent (43%) to Texas and fifty-seven per cent (57%) to New Mexico.

(d) Except as to water salvaged, apportioned in paragraph (c) of this Article, the beneficial consumptive use of water which shall be non-beneficially consumed, and which is recovered, is hereby apportioned to New Mexico but not to have the effect of diminishing the quantity of water available to Texas under the 1947 condition.

(e) Any water salvaged in Texas is hereby apportioned to Texas.

(f) Beneficial consumptive use of unappropriated flood waters is hereby apportioned fifty per cent (50%) to Texas and fifty per cent (50%) to New Mexico.

#### Article IV

(a) New Mexico and Texas shall cooperate to support legislation for the authorization and construction of projects to eliminate non-beneficial consumption of water.

(b) New Mexico and Texas shall cooperate with agencies of the United States to devise and effectuate means of alleviating the salinity conditions of the Pecos River.

(c) New Mexico and Texas each may:

(i) Construct additional reservoir capacity to replace reservoir capacity made unusable by any cause.

(ii) Construct additional reservoir capacity for the utilization of water salvaged and unappropriated flood waters apportioned by this Compact to such state.

(iii) Construct additional reservoir capacity for the purpose of making more efficient use of water apportioned by this Compact to such state.

(d) Neither New Mexico nor Texas will oppose the construction of any facilities permitted by this Compact, and New Mexico and Texas will cooperate to obtain the construction of facilities that will be of joint benefit to the two states.

(e) The Commission may determine the conditions under which Texas may store water in works constructed in and operated by New Mexico.

(f) No reservoir shall be constructed and operated in New Mexico above Avalon Dam for the sole benefit of Texas unless the Commission shall so determine.

(g) New Mexico and Texas each has the right to construct and operate works for the purpose of preventing flood damage.

(h) All facilities shall be operated in such manner as to carry out the terms of this Compact.

#### Article V

(a) There is hereby created an interstate administrative agency to be known as the "Pecos River Commission." The Commission shall be composed of one Commissioner representing each of the states of New Mexico and Texas, designated or appointed in accordance with the laws of each such state, and, if designated by the President, one Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum.

(b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the two states. On or before November 1 of each even numbered year the Commission shall adopt and transmit to the Governors of the two states and to the President a budget covering an estimate of its expenses for the following two years. The payment of the expenses of the Commission and of its employees shall not be subject to the audit and accounting procedures of either of the two states. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified independent public accountant and the report of the audit shall be included in, and become a part of, the annual report of the Commission.

(c) The Commission may appoint a secretary who, while so acting, shall not be an employee of either state. He shall serve for such term, receive such salary, and perform such duties as the Commission may direct. The Commission may employ such engineering, legal, clerical, and other personnel as in its judgment may be necessary for the performance of its functions under this Compact. In the hiring of employees the Commission shall not be bound by the civil service laws of either state.

(d) The Commission, so far as consistent with this Compact, shall have power to:

1. Adopt rules and regulations;
2. Locate, establish, construct, operate, maintain, and abandon water gaging stations, independently or in cooperation with appropriate governmental agencies;
3. Engage in studies of water supplies of the Pecos River and its tributaries, independently or in cooperation with appropriate governmental agencies;
4. Collect, analyze, correlate, preserve and report on data as to the stream flows, storage, diversions, salvage, and use of the waters of the Pecos River and its tributaries, independently or in cooperation with appropriate governmental agencies;
5. Make findings as to any change in depletion by man's activities in New Mexico, and on the Delaware River in Texas;
6. Make findings as to the deliveries of water at the New Mexico-Texas state line;
7. Make findings as to the quantities of water salvaged and the amount thereof delivered at the New Mexico-Texas state line;
8. Make findings as to quantities of water non-beneficially consumed in New Mexico;
9. Make findings as to quantities of unappropriated flood waters;
10. Make findings as to the quantities of reservoir losses from reservoirs constructed in New Mexico which may be used for the benefit of both states, and as to the share thereof charged under Article VI hereof to each of the states;
11. Acquire and hold such personal and real property as may be necessary for the performance of its duties hereunder and to dispose of the same when no longer required;
12. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in cooperation with appropriate governmental agencies;
13. Make and transmit annually to the Governors of the signatory states and to the President of the United States on or before

the last day of February of each year, a report covering the activities of the Commission for the preceding year.

(e) The Commission shall make available to the Governor of each of the signatory states any information within its possession at any time, and shall always provide free access to its records by the Governors of each of the States, or their representatives, or authorized representatives of the United States.

(f) Findings of fact made by the Commission shall not be conclusive in any court, or before any agency or tribunal, but shall constitute prima facie evidence of the facts found.

(g) The organization meeting of the Commission shall be held within four months from the effective date of this Compact.

#### Article VI

The following principles shall govern in regard to the apportionment made by Article III of this Compact:

(a) The Report of the Engineering Advisory Committee, supplemented by additional data hereafter accumulated, shall be used by the Commission in making administrative determinations.

(b) Unless otherwise determined by the Commission, depletions by man's activities, state-line flows, quantities of water salvaged, and quantities of unappropriated flood waters shall be determined on the basis of three-year periods reckoned in continuing progressive series beginning with the first day of January next succeeding the ratification of this Compact.

(c) Unless and until a more feasible method is devised and adopted by the Commission the inflow-outflow method, as described in the Report of the Engineering Advisory<sup>1</sup> Committee, shall be used to:

(i) Determine the effect on the state-line flow of any change in depletions by man's activities or otherwise, of the waters of the Pecos River in New Mexico.

(ii) Measure at or near the Avalon Dam in New Mexico the quantities of water salvaged.

(iii) Measure at or near the state line any water released from storage for the benefit of Texas as provided for in subparagraph (d) of this Article.

(iv) Measure the quantities of unappropriated flood waters apportioned to Texas which have not been stored and regulated by reservoirs in New Mexico.

(v) Measure any other quantities of water required to be measured under the terms of this Compact which are susceptible of being measured by the inflow-outflow method.

(d) If unappropriated flood waters apportioned to Texas are stored in facilities constructed in New Mexico, the following principles shall apply:

(i) In case of spill from a reservoir constructed in and operated by New Mexico, the water stored to the credit of Texas will be considered as the first water to spill.

(ii) In case of spill from a reservoir jointly constructed and operated, the water stored to the credit of either state shall not be affected.

(iii) Reservoir losses shall be charged to each state in proportion to the quantity of water belonging to that state in storage at the time the losses occur.

(iv) The water impounded to the credit of Texas shall be released by New Mexico on the demand of Texas.

(e) Water salvaged shall be measured at or near the Avalon Dam in New Mexico and to the quantity thereof shall be added a quantity equal to the quantity of salvaged water depleted by man's activities above Avalon Dam. The quantity of water salvaged that is apportioned to Texas shall be delivered by New Mexico at the New Mexico-Texas state line. The quantity of unappropriated flood waters impounded under paragraph (d) of this Article, when released shall be delivered by New Mexico at the New Mexico-Texas state line in the quantity released less channel losses. The unappropriated flood waters apportioned to Texas by this Compact that are not impounded in reservoirs in New Mexico shall be measured and delivered at the New Mexico-Texas state line.

(f) Beneficial use shall be the basis, the measure, and the limit of the right to use water.

#### Article VII

In the event of importation of water by man's activities to the Pecos River Basin from any other river basin the state making the importation shall have the exclusive use of such imported water.

#### Article VIII

The provisions of this Compact shall not apply to, or interfere with, the right or power of either signatory state to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact.

#### Article IX

In maintaining the flows at the New Mexico-Texas state line required by this Compact, New Mexico shall in all instances apply the principle of prior appropriation within New Mexico.

#### Article X

The failure of either state to use the water, or any part thereof, the use of which is apportioned to it under the terms of this Compact, shall not constitute a relinquishment of the right to such use, nor shall it constitute a forfeiture or abandonment of the right to such use.

#### Article XI

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States under the Treaty with the United Mexican States (Treaty Series 994);

(b) Affecting any rights or powers of the United States, its agencies or instrumentalities, in or to the waters of the Pecos River, or its capacity to acquire rights in and to the use of said waters;

(c) Subjecting any property of the United States, its agencies or instrumentalities, to taxation by any state or subdivision thereof, or creating any obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any state or political subdivision thereof, state agency, municipality or entity whatsoever, in reimbursement for the loss of taxes;

(d) Subjecting any property of the United States, its agencies or instrumentalities, to the laws of any state to an extent other than the extent to which such laws would apply without regard to this Compact.



## Article XII

The consumptive use of water by the United States or any of its agencies, instrumentalities or wards shall be charged as a use by the state in which the use is made; provided, that such consumptive use incident<sup>2</sup> to the diversion, impounding, or conveyance of water in one state for use in the other state shall be charged to such latter state.

## Article XIII

This Compact shall not be construed as establishing any general principle or precedent applicable to other interstate streams.

## Article XIV

This Compact may be terminated at any time by appropriate action of the legislatures of both of the signatory states. In the event of such termination, all rights established under it shall continue unimpaired.

## Article XV

This Compact shall become binding and obligatory when it shall have been ratified by the legislature of each State and approved by the Congress of the United States. Notice of ratification by the legislature of each State shall be given by the Governor of that State to the Governor of the other State and to the President of the United States, and the President is hereby requested to give notice to the Governor of each State of approval by the Congress of the United States.

In Witness Whereof, the Commissioners have executed three counterparts hereof each of which shall be and constitute an original, one of which shall be deposited in the archives of the Department of State of the United States, and one of which shall be forwarded to the Governor of each State.

Done at the City of Santa Fe, State of New Mexico, this 3rd day of December, 1948.

---

JOHN H. BLISS

Commissioner for the State of New  
Mexico

---

CHARLES H. MILLER

Commissioner for the State of  
Texas

APPROVED

---

BERKELEY JOHNSON

Representative of the United States of America

Sec. 2. The Governor shall, with the advice and consent of the Senate, appoint a Commissioner, who shall represent the State of Texas on the Commission provided for by Article V of the Pecos River Compact and who shall be charged with the administration of the provisions of said Compact, and who shall have the powers and discharge the duties prescribed by the terms of said Compact. Such Commissioner shall serve for a term of two (2) years from and after the date of his appointment and until his successor, who shall serve for a like term, is appointed and qualified. He shall take oath of office as prescribed by the Constitution and, in addition thereto, he shall take oath to perform faithfully the duties incumbent upon him as such Commissioner. Until otherwise pro-

vided by law, he shall receive a salary of Three Hundred (\$300.00) Dollars each month. He shall be allowed his actual expenses when traveling in the discharge of his duties. The Commissioner shall have authority to meet and confer with the New Mexico member of the Commission at such points within the States of Texas and New Mexico, and elsewhere, as the Commission may see fit. He may make such investigations and appoint such engineering, legal and clerical aid as may be necessary to protect the interest of the State of Texas and to carry out and enforce the terms of said Compact. He may incur necessary office expenses and other expenses incident to the proper performance of his duties and the proper administration of the provisions of the Pecos River Compact. But such Commissioner shall incur no financial obligation on behalf of the State of Texas until the Legislature shall have provided and appropriated money therefor.

Sec. 4. The State Board of Water Engineers shall furnish the Commissioner appointed hereunder such factual data and information as it may have available and shall cooperate with the Commissioner in the performance of his duties.

Sec. 5. The provisions of the Pecos River Compact shall not become binding and obligatory until they shall have been duly ratified and approved by the Legislature of the State of New Mexico and by the Congress of the United States of America.

Sec. 6. It shall be the duty of the Governor of Texas to notify the Governor of New Mexico and the President of the United States of the ratification by the State of Texas of the Pecos River Compact; and, on request of the Governor, the Secretary of State shall furnish to the Governor of New Mexico and to the President of the United States a certified copy of this Act. Acts 1949, 51st Leg., p. 51, ch. 30.

1 So in enrolled bill. Probably should be "advisory."

2 So in enrolled bill. Probably should be "incident."

Emergency. Effective March 4, 1949.

Section 3 of the Act of 1949 read as follows: "There is hereby appropriated the sum of Sixty Thousand (\$60,000.00) Dollars for the biennium next following, Thirty Thousand (\$30,000.00) Dollars of said sum to be made available on September 1, 1949, and Thirty Thousand (\$30,000.00) Dollars on September 1, 1950, out of any funds in the State Treasury not otherwise appropriated, for the purpose of carrying out the provisions of the Act. Said money shall be paid out on sworn accounts approved by the Commissioner and shall be paid out of the State Treasury on warrants of the Comptroller as under General Laws."

Complimentary Laws:

U.S.—Act June 9, 1949. ch. 181, 63 Stat. 159.

N.M.—Laws 1949, ch. 6.

Title of Act:

An Act approving and adopting the Pecos River Compact; authorizing the Governor to appoint a Commissioner to administer the provisions of the Compact; providing for the salary and necessary expenses of the Commissioner; appropriating for the expenses of administering the Compact; and declaring an emergency. Acts 1949, 51st Leg., p. 51, ch. 30.

#### Art. 7466g. Canadian, Red and Sabine rivers; negotiation of interstate agreement

Section 1. The Governor of this State shall, with the advice and consent of the Senate, appoint some qualified person Interstate Compact Commissioner to represent the State of Texas in Conferences with duly appointed Compact Commissioners for other affected States, and a representative of the Government of the United States appointed by the President for such purpose, to negotiate an agreement with each of the affected States respecting the use, control and disposition of the waters of the Canadian, Red and Sabine Rivers and their tributaries.

Sec. 2. The Interstate Compact Commissioner appointed to represent Texas shall hold office for two (2) years and until his successor is ap-

pointed 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 Interstate Compact Commissioner. The Interstate Compact Commissioner shall have authority to meet and confer with the Compact Commissioners for the other affected States and the representative of the Government of the United States at such points within the State of Texas or any of the affected States, or elsewhere, as the Commissioners of said States may see fit. Such Interstate Compact 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 Interstate Compact Commissioner on behalf of the State of Texas and the Compact Commissioners of other affected States, and the representative of the Government of the United States, respecting the Canadian, Red and Sabine Rivers, shall be reduced to writing and submitted to the Governor of this State; but any such agreement, or agreements, shall have no binding effect upon the State of Texas or any of its legal representatives until the same shall have been ratified by the Legislature of this State and approved by the Governor, nor until ratified by the Legislature or Legislatures of the affected States and consented to by the Congress of the United States.

Sec. 4. The State Board of Water Engineers shall furnish the Interstate Compact Commissioner appointed hereunder such factual data and information as it may have available and shall cooperate with the Interstate Compact Commissioner in the performance of his duties.

Sec. 5. There is here appropriated for the biennium ending August 31, 1951, for the use of the Interstate Compact Commissioner appointed under Section 1 of this Act, out of any funds in the State Treasury not heretofore otherwise appropriated, the sum of Twenty-eight Thousand Dollars (\$28,000) for the purpose of performing his duties under this Act. Provided, that said Interstate Compact Commissioner shall draw an annual salary of Six Thousand, Six Hundred Dollars (\$6,600) payable in twelve (12) monthly installments, plus necessary expenses. Said funds shall be paid out on accounts signed by the Interstate Compact Commissioner and shall be paid out of the State Treasury on warrants of the Comptroller as under General Law. Acts 1949, 51st Leg., p. 716, ch. 380.

Emergency. Effective June 13, 1949.

## 2. BOARD OF WATER ENGINEERS

### Art. 7467b. Abandoned channels in counties of 350,000 population

#### Relinquishment of title and interest of state

Section 1. In all counties of this State having a population in excess of three hundred and fifty thousand (350,000) according to the last preceding Federal CensuS, the State of Texas hereby relinquishes, quit claims and grants unto the adjacent landowners all right, title and interest of the State of Texas in and to all of the beds and channels of all rivers and streams that are now, or that may hereafter be, abandoned by reason of the construction of new beds or channels for such rivers or streams by levee improvement districts, drainage districts, or flood control districts organized and created under the laws of the State of Texas or by special Act of the Legislature of the State of Texas, where such abandonment is provided under an approved plan of reclamation.

**Title of adjacent owners**

Sec. 2. The landowners adjacent to such abandoned bed or channel, shall own that portion of such bed or channel adjacent to their respective lands, and to the middle of such abandoned bed or channel.

**Perfection of title**

Sec. 2a. Any claimant to any portion of said land may perfect his title by applying to the Commissioner of the General Land Office to purchase the land claimed. Such application shall be accompanied by field notes of the tract claimed together with filing fee of One Dollar (\$1) and evidence of such claimant's right and title. Upon receipt of a satisfactory application and satisfactory showing of right, such application shall be approved and the land awarded to the applicant. Within sixty (60) days after such award, the applicant shall pay to the Commissioner of the General Land Office for the use and benefit of the public school fund the sum of Ten Dollars (\$10) per acre for the land, and upon receipt thereof, the Commissioner shall issue to the claimant a patent to the land. The Commissioner is hereby authorized to make such rules and regulations as may be appropriate and necessary to accomplish the purpose of this Act.

**Evidence of abandonment**

Sec. 3. Whenever a bed or channel of a river or stream has been filled under an approved plan of reclamation as provided by law, or where an approved plan of reclamation provides for the filling of a bed or channel of a river or stream, such fact shall be conclusive evidence of the abandonment of such bed or channel. Wherever an approved plan of reclamation provides that a bed or channel of a river or stream shall be used for the transmission or storage of storm waters, such fact shall be conclusive evidence that such bed or channel has not been abandoned.

**Rights of state, political subdivisions and public utilities**

Sec. 4. Nothing herein contained shall be construed as affecting in any manner the rights of the State, cities, counties, any other political subdivision of the State, public utility companies, or of the public, in and to the streets, alleys, roads, parks, levees, flood control works, water lines, sewer lines, gas lines, oil lines, power lines, railroads, or other public utility lines, where the same now occupy or cross any abandoned river bed or channel, provided further, that nothing herein shall be construed as affecting in any manner the validity of oil, gas and other mineral leases, heretofore executed, or that may be hereafter executed by the State prior to the abandonment of such bed or channel.

**Approved plan of reclamation defined**

Sec. 5. Wherever the term "approved plan of reclamation" is used herein, it shall be construed to mean a plan of reclamation approved by such authority or authorities as are in such cases provided by the laws of the State of Texas.

**Reservation of minerals**

Sec. 5a. All minerals in any land donated under the provisions of this Act are hereby reserved to the State of Texas.

**City of San Antonio excepted**

Sec. 6. The provisions of this Act shall not apply to that portion of the river bed situated within the corporate limits of San Antonio, Texas. Acts 1949, 51st Leg., p. 708, ch. 372.

Effective 90 days after July 6, 1949, date of adjournment.

**3. REGULATION OF USE****Art. 7583. Additional right of way obtained**

Any such person, association of persons, corporation, irrigation or water improvement district, or any city or town, may also obtain the right of way over private lands and also the lands for pumping plants, intakes, headgates and storage reservoirs, by condemnation, by causing the damages for any private property appropriated by any such person, association of persons, corporation, water improvement or irrigation district or city or town, to be assessed and paid for as provided by the Statutes of this State, and as provided in Title 52 of this Act relating to 'Eminent Domain'; provided, however, that when the power granted by this Section is sought to be exercised by any person or association of persons, but not including corporations, districts, cities or towns, he or they shall first make application to the Board of Water Engineers for such condemnation and said Board shall make due investigation and if it deems advisable shall give notice to the party owning the land sought to be condemned, and after hearing, may institute such condemnation proceedings in the name of the State of Texas for the use and benefit of said person or persons and all others similarly situated, the costs of said suit and condemnation to be paid by the person or persons at whose instance the same is instituted in proportion to the benefits received by each as fixed by said Board and to be paid before use is made of such condemned rights of property; and thereafter all persons seeking to take the benefits of such condemnation proceedings shall make application therefor to the Board of Water Engineers and if such application is granted shall pay fees and charges as may be fixed by the Board. As amended Acts 1949, 51st Leg., p. 366, ch. 189, § 1.

Emergency. Effective May 14, 1949.

Section 1a of the amendatory Act of 1949, read as follows: "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."

**CHAPTER TWO—WATER IMPROVEMENT DISTRICTS**

**Art.**

7807n. Composition of indebtedness; validation of plan [New].

**Art. 7661. Board of Equalization**

The directors for such district created under the provisions of this Act may, at their option, by a resolution spread upon the minutes, constitute themselves a Board of Equalization to sit as such with the powers, duties and responsibilities otherwise delegated to their appointed Board of Equalization as provided for by legislative Act; but not choosing to exercise such option, the directors shall, at their first meeting, or as soon thereafter as practicable, and annually thereafter, appoint three commissioners, each being a qualified voter and resident property owner of

said district, who shall be styled "The Board of Equalization" and at the same meeting the same board of directors shall fix the time for the meeting of such Board of Equalization for the first year; and said Board of Equalization shall convene at the time fixed by the directors to receive all assessment lists or books of the assessor for said district for examination, correction, equalization, appraisal and approval; and at all meetings of said Board the secretary of the board of directors shall act as secretary thereof and keep a permanent record of all the proceedings of said Board of Equalization. As amended Acts 1949, 51st Leg., p. 672, ch. 344, § 1.

Emergency. Effective June 10, 1949.

#### Art. 7775c. Excluding land from improvement district

Urban property, exclusion of, see art. 8280—3.

#### Art. 7807n. Composition of indebtedness; validation of plan

Where any water improvement district has, prior to the adoption of this Act, adopted a plan for the composition of its indebtedness, and, as a part of such plan, has made covenants that it will never issue or sell any unsold bonds theretofore authorized by election, and that as long as any refunding bonds issued under such plan or interest thereon remain outstanding, it will not incur any additional debt, or levy any ad valorem tax not necessary to comply with such plan, or call an election for either or both of such purposes unless its board of directors is petitioned to do so by the owners of a majority in assessed valuation of the taxable land within the district as the district existed when the plan of composition was adopted, such covenants are hereby validated, and if such plan has been or shall be adopted by the holders of all of the bonded indebtedness affected thereby or confirmed by a court in a proceeding brought for the confirmation thereof, the district shall be bound by such covenants. Acts 1949, 51st Leg., p. 624, ch. 332, § 1.

Emergency. Effective June 7, 1949.

##### Title of Act:

An Act validating certain covenants restricting additional indebtedness and taxes contained in plans for the composition of indebtedness of water improvement dis-

tricts and making such covenants binding when the plan is accepted by the holders of all of the outstanding bonded indebtedness or is confirmed by a court; and declaring an emergency. Acts 1949, 51st Leg., p. 624, ch. 332.

## CHAPTER 3A—WATER CONTROL AND IMPROVEMENT DISTRICTS

Art.  
7880—3c Underground water conservation districts [New].

Art.  
7880—75c. Validation of addition of land; failure to describe by metes and bounds [New].

#### Art. 7880—3c. Underground water conservation districts

##### Definitions

A. Unless the context of this Section 3c indicates a different meaning, the words hereinafter defined when used in this Section 3c shall have the following meaning:

(1) "Board" is the State Board of Water Engineers.

(2) "District" is an Underground Water Conservation District which includes within its purposes and plans those functions authorized by the provisions of this Section 3c.

(3) "Underground water" is water suitable for agricultural, gardening, domestic or stock raising purposes, percolating below the earth's surface, and does not include defined subterranean streams or the underflow of rivers.

(4) "Underground water reservoir" is a specific subsurface water-bearing reservoir having ascertainable boundaries, and containing underground water capable of being produced from a well at the rate of not less than one hundred and fifty thousand (150,000) gallons a day.

(5) "Subdivision of an underground water reservoir" is that definable part of an underground water reservoir from which withdrawal of waters cannot measurably affect the underground water of any other part of such reservoir, based upon existing conditions and reasonably foreseeable conditions, at the time of the designation or alteration of such subdivision.

(6) "Waste" shall mean:

(a) the withdrawal of underground water from an underground water reservoir at such a rate and in such amount so as to cause the intrusion therein of water not suitable for agricultural, gardening, domestic or stock raising purposes;

(b) the flowing or producing of wells from an underground water reservoir when the water produced therefrom is not used for a beneficial purpose;

(c) the escape of underground water from one underground water reservoir to any other reservoir not containing underground water, as defined in this Section 3c; and

(d) the pollution or harmful alteration of the character of the underground water within the underground water reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata or from the surface of the ground.

(7) "Beneficial purpose" means the use of underground water for agricultural, gardening, domestic, stock raising, municipal or mining purposes, for exploring for, producing, handling and treating of oil, gas, sulphur or other mineral, for manufacturing, industrial, commercial, recreational or pleasure purposes or any other purpose that is useful and beneficial to the user thereof.

(8) "Segregated irrigated area" shall mean an irrigated area separated from other irrigated areas by at least five (5) miles of unirrigated lands.

(9) "Grazing land" shall mean land in tracts of not less than six hundred and forty (640) acres used exclusively for grazing purposes which is either unsuited for irrigation or land on which water is being produced for domestic and stock raising purposes only. Grazing land is defined above within the boundaries of an underground water control and improvement district created for the primary purpose of underground water conservation shall be excluded therefrom and shall not be subject to taxation by such District and shall not be liable for the bonded indebtedness of such District.

#### **Creation of districts; powers and functions**

B. Districts may hereafter be created for the conservation, preservation, protection, and recharging and the prevention of waste of the underground water of an underground water reservoir or subdivision thereof, defined and designated in accordance with the provisions of Subsection C of this Section 3c. To accomplish these purposes pursuant to Section 59 a, b, and c, of Article XVI of the Constitution of Texas, the administrative and procedural provisions as now or hereafter contained in Chapter 25, Acts of the Regular Session of the Thirty-ninth Legislature of the State of Texas, 1925, as amended,<sup>1</sup> shall apply in so

far as applicable to such Districts, but such Districts shall not be organized for any purposes except those set forth in this Section 3c.

<sup>1</sup> Article 7880—1 et seq.

Such Districts shall and are hereby authorized to exercise any one or more of the following powers and functions:

(1) to formulate, promulgate and enforce rules and regulations for the purpose of conserving, preserving, protecting and recharging the underground water of the underground water reservoir or subdivision thereof;

(2) to formulate, promulgate and enforce rules and regulations to prevent the waste, as herein defined, of the underground water of the underground water reservoir or subdivision thereof;

(3) to require permits for the drilling, equipping and completion of wells in the underground water reservoir and to issue such permits subject to such terms and provisions with reference to the drilling, equipping and completion thereof as may be necessary to prevent waste, as herein defined;

(4) to provide for the spacing of wells producing from the underground water reservoir or subdivision thereof and to regulate the production therefrom so as to minimize as far as practicable the drawdown of the water table or the reduction of the artesian pressure; provided, however, the owner of the land, his heirs, assigns and lessees, shall not be denied a permit to drill a well on his land and produce underground water therefrom subject to rules and regulations promulgated hereunder to prevent waste, as herein defined;

(5) to require records to be kept and reports to be made of the drilling, equipping and completion of wells into the underground water reservoir or subdivision thereof and the taking and use of underground water therefrom; to require accurate drillers' logs to be kept of such wells and a copy thereof and of any electric logs which may be made of such wells to be filed with the District and the Board;

(6) to acquire lands for the erection of dams and for the purpose of draining lakes, draws, and depressions, and to construct dams, drain lakes, depressions, draws and creeks and to install pumps and other equipment necessary to recharge the underground water reservoir or subdivision thereof but no such District having the powers granted in this Section 3c shall engage in the sale or distribution of surface or underground water for any purpose;

(7) to cause to be made by registered professional engineers surveys of the underground water of the underground water reservoir or subdivision thereof and of the facilities for the development, production and use of such underground water, to determine the quantity thereof available for production and use and the improvements, developments and recharges needed for such underground water reservoir or subdivision thereof;

(8) to develop comprehensive plans for the most efficient use of the underground water of the underground water reservoir or subdivision thereof and for the control and prevention of waste of such underground water, which plans shall specify in such detail as may be practicable the acts, procedure, performance and avoidance which are or may be necessary to effect such plans, including specifications therefor; to carry out research projects, develop information and determine limitations, if any, which should be made on the withdrawal of underground water from the underground water reservoir or subdivision thereof; to collect and preserve information regarding the use of such underground water and the practicability of recharge of the underground water subdivision thereof; to publish such plans and information, bring



them to the notice and attention of the users of such underground water within the District, and to encourage their adoption and execution;

(9) to enforce, by injunction, mandatory injunction or other appropriate remedy, in courts of competent jurisdiction, rules and regulations duly adopted and promulgated by such District; provided, that no rule or regulation shall be effective until a brief resume thereof has been published once a week for two consecutive weeks in one or more newspapers to give circulation within the District, and such rule or regulation is to be effective not less than fourteen (14) days after the date of the first publication.

**Area included; designation of underground water reservoirs and subdivisions**

C. No petition for the creation of a District to exercise the powers and functions set forth in Subsection B of this Section 3c shall be considered by a Commissioners Court or the Board, as the case may be, unless the area to be included therein is coterminous with an underground water reservoir or subdivision thereof which theretofore has been defined and designated by the Board as an underground water reservoir or subdivision thereof. Such district, in conforming to a defined reservoir or subdivision, may include all or parts of a county or counties, municipal corporations or other political subdivisions, including but not limited to Water Control and Improvement Districts.

It shall be the duty of the Board from time to time and in any event upon application by petition in the manner provided in Section 10<sup>1</sup> of the Acts of 1925, Thirty-ninth Legislature, Chapter 25, page 88, after notice and hearing as provided for in Section 15 and Section 21<sup>2</sup> (as amended), Acts of 1925, Thirty-ninth Legislature, Chapter 25, to designate underground water reservoirs and subdivisions thereof and thereafter as future conditions may require and factual data justify to alter the boundaries thereof; provided, however, such alteration shall not invalidate the creation of any District theretofore created with the powers provided for in this Section 3c.

<sup>1</sup> Article 7880—10.

<sup>2</sup> Articles 7880—15, 7880—21.

**Ownership of underground waters; application of laws**

D. The ownership and rights of the owner of the land, his lessees and assigns, in underground water are hereby recognized, and nothing in this Section 3c shall be construed as depriving or divesting such owner, his assigns or lessees, of such ownership or rights, subject, however to the rules and regulations promulgated pursuant to this Section 3c.

It is specifically provided in this connection that:

(1) the priorities, regulations and provisions of the law relating to the use of surface waters shall in no manner apply to underground water;

(2) the provisions of Section 4a of Chapter 25, Acts of the Regular Session of the Thirty-ninth Legislature of the State of Texas, 1925, as amended by Chapter 107, Acts of the First Called Session of the Fortieth Legislature of the State of Texas, 1927,<sup>1</sup> shall not apply in the exercise of the powers and functions conferred by this Section 3c;

(3) nothing in this Section 3c shall be construed as applying to wells drilled, under permits granted by the Railroad Commission, of Texas, for oil, gas, sulphur, brine, or any of them, for core tests, for injection of gas, salt water or other fluid, or for any other purpose;

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

- (4) nothing in this Section 3c shall authorize or permit:
- (a) the requiring of a permit for the drilling or producing of a well drilled to supply water for the drilling of any one or more of the wells mentioned in (3) next preceding;
- (b) the requiring of a permit for the drilling or producing of a well drilled, completed and equipped so that it will not produce in excess of one hundred thousand (100,000) gallons of underground water per day; or
- (c) the restriction of the production from any well producing underground water to an amount less than one hundred thousand (100,000) gallons of underground water per day; provided, however, the wells mentioned in (a), (b) and (c) above shall be equipped and maintained so as to conform with the rules and regulations, promulgated by any District pursuant to this Section 3c and applicable to the underground water reservoir in which such wells are completed, requiring the installation of casing, pipe and fittings in wells so as to prevent the escape of underground water from one underground water reservoir to any other reservoir not containing underground water and so as to prevent the pollution or harmful alteration of the character of the underground water within any underground water reservoir, as herein defined.

<sup>1</sup> Article 7880—4a.

#### Elections .

E. (1) Districts exercising the powers and functions provided for in this Section 3c shall include no segregated irrigated area unless a majority of the property taxpaying voters residing in such segregated irrigated area and voting at the election favor the inclusion of such area within the District.

(2) Districts proposing to issue bonds for carrying out one or more of the powers and functions conferred by this Section 3c shall not be required to submit their plans to and secure approval of the Board as required by Section 139 of Chapter 25, Acts of the Regular Session of the Thirty-ninth Legislature of the State of Texas, 1925.<sup>1</sup>

(3) The directors of all Districts created to exercise the powers and perform the functions in this Section 3c provided shall be selected according to the 'precinct method,' as such method is defined and provided for in Senate Bill 247 enacted by the Forty-sixth Legislature, Regular Session, 1939,<sup>2</sup> and all provisions of said Senate Bill 247 relating to the election of directors by the precinct method shall be applicable to Districts created under this Section 3c; provided, however, in the creation of precincts for the election of directors of such a District, if any portion of a municipal corporation is a part of one precinct, then no portion of such municipal corporation shall be included in any other precinct; provided further however, that a municipal corporation having a population of more than two hundred thousand (200,000) persons according to the last preceding Federal Census may be included in not more than two (2) precincts.

(4) At any election for the creation of such Districts or for issuing bonds or otherwise lending the credit of the District, only the property taxpaying residents of the District who have duly and personally rendered their property for taxation and which property appears on the rendered roll and who are otherwise qualified shall be entitled to vote

<sup>1</sup> Article 7880—139.

<sup>2</sup> Article 7880—38a.

#### Contest of validity of act or rules, regulations or orders

F. Any interested person, firm, corporation or association of persons affected by the provisions of this Section 3c or by any rules, regulations

or orders made or promulgated by a District hereunder or by any act of the Board pursuant hereto and who may be dissatisfied therewith shall have the right to file a suit in a court of competent jurisdiction in any county in the State of Texas in which such District or any part thereof is located if the suit is against a District or its directors and in a court of competent jurisdiction in Travis County, Texas, if the suit is against the Board, to test the validity of this Section 3c, and such rules, regulations or orders or any of them or any act of the Board. Such suit shall be advanced for trial and be determined as expeditiously as possible, and no postponement thereof or continuance shall be granted except for reasons deemed imperative by the court. In all such trials the burden of proof shall be upon the party complaining of such law, rules, regulations or orders or act of the Board, and such law, rules, regulations or orders or act of the Board so complained of shall be deemed prima-facie valid but the trial shall be de novo, and the court shall determine independently all issues of fact and of law with respect to the validity and reasonableness of the law, rules, regulations or orders or acts of the Board complained of. The provisions of this Subsection shall be cumulative of all rights of court action by the affected parties and shall not impair or restrict their right to equitable relief.

#### Taxes

G. No District created under this Section 3c shall have the power to levy or collect a tax for any purpose to exceed fifty cents (50¢) on the One Hundred Dollars (\$100) assessed valuation on property in the District subject to taxation.

#### Dissolution of districts

H. Any such District may be dissolved in the manner provided by Section 10 of Chapter 280, Acts of 1929, Forty-first Legislature, Regular Session<sup>1</sup>, regardless of whether or not such District may have outstanding indebtedness at the time of dissolution. In the event such District shall have outstanding bonds or other indebtedness maturing beyond the current year in which such dissolution occurs, the Commissioners Court of the County in which the District is situated shall levy and cause to be collected as county taxes are assessed and collected, sufficient taxes on all taxable property within such District to pay the principal and interest on such indebtedness when due. This paragraph shall not apply to Districts composed of territory in more than one (1) county. Acts 1925, 39th Leg., p. 25, § 3c, added Acts 1949, 51st Leg., p. 559, ch. 306, § 1.

<sup>1</sup> Article 7880—10.

Emergency. Effective June 2, 1949. Section 2 of the Act of 1949, provided that if any section, sentence, clause, or part of this Act shall, for any reason, be held invalid, such decision shall not affect the remaining portions of this Act, and it

is hereby declared to be the intention of this 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.

#### Art. 7880—75c. Validation of addition of land; failure to describe by metes and bounds

Any water control and improvement district which heretofore has installed and is now operating a water distribution system and a sewer collection and disposal plant, and which has issued ad valorem tax bonds for the acquisition of such system and plant, payable also out of the water and sewer revenues derived therefrom, and whose boundaries have been enlarged by an order or orders passed by the Board of Directors granting the petition or petitions of landowners filed with said Board of Directors, that the lands described in such petition

or petitions, whether described by metes and bounds or by lot and block number, be added to the district, such order or orders heretofore passed by the Board of Directors of such districts granting such petition or petitions of landowners that the lands so described in such petition or petitions be added to the district, are hereby in all things validated and the fact that by inadvertence or otherwise the lands thus annexed to any such district were not described by metes and bounds in the petition or petitions or order of such Boards granting such petition or petitions shall in nowise invalidate such annexations. Provided, however, that nothing herein contained shall in any manner validate or affect any such order or orders of the Board of Directors of any such district, the validity of which is in litigation in any Court of this State at the time of the effective date of this Act. Acts 1949, 51st Leg., p. 520, ch. 285, § 1.

Emergency. Effective May 27, 1949.

**Art. 7880—76. Lands excluded from district**

Urban property, exclusion of, see art. 8280—3.

**CHAPTER THREE-B—CAMERON AND WILLACY COUNTIES,  
OVERFLOWS**

**Article 7880—148. Sinking fund**

**Allocation of Taxes Extended.**

Acts 1947 50th Leg., p. 1071, ch. 457, § 1, extended the allocation of taxes for certain public agencies mentioned in the preamble including Cameron County. Section 1a, added by Acts 1949, 51st Leg., p. 572, ch. 309, read in part as follows:

"Section 1-a. In addition to the specific relief granted to each such Public Agency by Section 1 hereof, and without restricting or otherwise limiting the terms or conditions of the original acts, amendments or extensions of the laws applicable to such Public Agency and in recognition of the failure of the State to levy the State ad valorem tax for general revenue purposes for the year 1948, the following additional relief is hereby provided for each of such Agencies hereinafter named by an allocation and donation to each represented by an extension as to time, percentage or area in order that each such Agency may receive an amount equal but not in excess of the amount that each would have received had such tax been levied for the year 1948, and limited to the amount actually received by such Agency by reason of

the 1947 levy during the fiscal year from September 1, 1947, to August 31, 1948, as shown by the records of the State Comptroller's Office, and any moneys collected from such levies in such donation areas in excess thereof shall be transmitted to the State Treasury by the proper officials of each such county.

"(r) For Cameron County, Texas, there is hereby allocated to and such Public Agency shall be entitled to receive in addition to the funds provided in its original, amended or extended acts, and subject to the limitation of the total amount above, an additional one-third (1/3) of all of the State ad valorem taxes levied for general revenue purposes for the years 1949 and 1950 as collected during the fiscal years of 1949-50 and 1950-51, in Cameron County, Texas, and in addition such Agency shall be entitled to receive an additional three-fourths (3/4) of all of such taxes as levied in said County as provided for by Section 1-a of Article VIII of the Constitution for the year 1953, and collected during the fiscal year of 1953-54 based upon the current assessed valuation for said years."

**III. DRAINAGE**

**CHAPTER SEVEN—DRAINAGE DISTRICTS**

**1. ESTABLISHMENT**

Art. 8120a. Compensation of commissioners in counties of 90,000 to 150,000 having assessed valuation of \$125,000,000 [New].

Art. 8161d. Drainage districts in counties of 27,030 to 27,070 [New].

**1. ESTABLISHMENT**

Art. 8120a. Compensation of commissioners in counties of 90,000 to 150,000 having assessed valuation of \$125,000,000

Section 1. The provisions of this Act shall apply only to counties having a population in excess of ninety thousand (90,000) inhabitants and less than one hundred and fifty thousand (150,000) inhabitants according to the last preceding or any future Federal Census and having an assessed valuation on property for ad valorem tax purposes of more than One Hundred and Twenty-five Million Dollars (\$125,000,000).

Sec. 2. The commissioners of drainage districts in counties affected by this Act may receive for their services compensation for the time actually engaged in the work of their districts, the amount of which compensation shall be fixed by the Commissioners Court of such county by an order entered in the minutes of such Court at any amount up to, but not in excess of, One Hundred and Fifty Dollars (\$150) in any one calendar month. The amount of such compensation shall be determined upon the application therefor in writing by the commissioners of drainage districts located in such counties filed with the Commissioners Court in such counties showing the necessity therefor and provided that such Commissioners Court, after having heard such petitions, may deny or grant the same in whole or in part and shall enter their written order in the minutes of such Court fixing the amount of such compensation within the limit aforesaid.

Sec. 3. Any laws conflicting with the provisions of this Act are hereby repealed to the extent and only to the extent of such conflict.

Sec. 4. If any word, phrase, clause, sentence, paragraph, section or a part of this Act shall be held by any court of competent jurisdiction to be invalid, as unconstitutional or for any other reason, it shall not affect any other word, phrase, clause, sentence, paragraph, section or part of this Act, it being the declared intention of the Legislature to pass any valid portions of this Act. Acts 1949, 51st Leg., p. 470, ch. 254.

Emergency. Effective May 21, 1949.

Art. 8161d. Drainage districts in counties of 27,030 to 27,070

**Joint improvements**

Section 1. The commissioners of drainage districts are authorized and empowered, within the discretion of their governing body, to join with any governmental agency, county or political subdivision, any city or town, any railroad company, or other person, corporation or association, in constructing any improvements for the district and in the maintenance of the same, and the portion of the expense incurred in such construction or maintenance by the drainage district shall be paid out of the drainage funds of such district.

**Purchase of supplies and equipment without bids**

Sec. 2. Commissioners of such districts are authorized to purchase necessary supplies and equipment and operate same for the maintenance, enlargement, extension, or improvement of the drainage system, provided where the cost of supplies and equipment does not exceed Five Hundred Dollars (\$500), it shall not be necessary to take bids; provided a requisition shall be issued for any such expenditure executed in triplicate signed by the drainage commissioners, one (1) copy to be delivered to the person, firm or corporation from whom such purchase is made, one (1) copy to be approved by the county judge and delivered to the county treasurer, and one (1) copy to remain on file with the commissioners of such drainage district before any such purchases or payment shall be made.

**Bids and specifications**

Sec. 3. When the commissioners of drainage districts advertise for bids for any supplies, equipment, improvements or work to be performed for such districts; specifications covering the material or supplies to be purchased or the work to be performed shall be prepared by the drainage commissioners who shall advertise for bids once each week for two (2) consecutive weeks in a newspaper published in the county in which such drainage district is located, stating the time and place of opening bids and where specifications may be obtained. Bids shall be accompanied by a certified check on a Texas bank for five per cent (5%) of the amount of the bid, conditioned that the successful bidder will enter into a bond and contract, said bond to be for a sum equal to the amount of the contract and to be executed by a surety company authorized to do business in Texas. The contract shall be awarded to the lowest and best bidder at an open meeting of the commissioners of said drainage district and shall be reduced to writing, and together with the bond and the original bid shall be filed with the chairman of the Drainage Commission as a part of his records before any supplies are furnished or delivered or any work performed.

**Power to make changes, additions and improvements**

Sec. 4. Commissioners of drainage districts are authorized and empowered to make changes in, additions to and improvements to the drainage systems in their respective districts when in their judgment the necessity therefor exists, to be paid for from funds provided by law to be assessed and collected in such districts to maintain, keep in repair and to preserve the improvements in the districts and to pay all legal, just and lawful debts, demands, and obligations against such districts; provided that nothing in this Act shall be construed as authorizing the levy of any tax in excess of the amount authorized by law for such purpose.

**Housing for equipment and supplies**

Sec. 5. Commissioners of drainage districts are authorized and empowered to purchase a tract or tracts of land and to erect thereon a warehouse or warehouses and other improvements necessary to properly house equipment and supplies owned by their respective districts, when in their judgment the necessity therefor exists, to be paid for from funds provided by law to be assessed and collected in such districts to maintain, keep in repair and preserve their improvements in the district and to pay all legal, just and lawful debts, demands and obligations against such district; provided that nothing in this Act shall be construed as authorizing the levy of any tax in excess of the amount authorized by law for such purpose.

**Mosquito control**

Sec. 6. The commissioners of drainage districts are authorized and empowered to purchase equipment and supplies necessary to conduct mosquito control work in their respective districts and to pay for the labor necessary to operate and maintain such equipment, when in their judgment the necessity therefor exists, to be paid for from funds provided by law to be assessed and collected in such districts to maintain, keep in repair and to preserve the improvements in the districts and to pay all legal, just and lawful debts, demands and obligations against such district; provided that nothing in this Act shall be construed as authorizing the levy of any tax in excess of the amount authorized by law for such purpose.

**Improvements along or across roads or streets**

Sec. 7. The commissioners of drainage districts are authorized to construct and maintain drainage improvements along or across any of the public roads or streets of this State in such manner as not to inconvenience the public in the use of the same, with the consent of the Commissioners Court of any county as to public roads under its jurisdiction, the State Highway Commission as to highways under its jurisdiction, and with the consent of the governing body of any municipality as to public roads under its jurisdiction, and under such regulations as the Commissioners Court or such governing body may prescribe.

**Compensation of commissioners; accounts; automobile allowance**

Sec. 8. The commissioners of drainage districts shall receive for their services not more than Five Dollars (\$5) per day for the time actually engaged in the work of their district, which compensation shall be fixed by an order of the Commissioners Court. Before the accounts of such commissioners shall be approved by the Commissioners Court such commissioners shall first submit a detailed report in writing under oath, to the Commissioners Court of their county showing the time actually consumed in the work for said district, and describing the work done, and such reports shall be audited and allowed by the Commissioners Court in such amount as it may determine; and such courts may upon written application therefor permit an automobile or automobiles to be used by such commissioners in the discharge of their duties and allow not to exceed Two Dollars and fifty cents (\$2.50) per day for their use, expense, oil, gas, repairs, and upkeep of each automobile so permitted to be used; provided that such court, after having heard such petitions, may deny or grant the same in whole or in part and shall enter their written orders in the premises fixing the amount of such allowance or allowances within the limits aforesaid, stating the reasons and necessity therefor and fixing the number of days in which allowances are to be in effect.

**Application of law**

Sec. 9. The provisions of this Act shall apply only to counties having a population in excess of twenty-seven thousand and thirty (27,030) inhabitants and less than twenty-seven thousand and seventy (27,070) inhabitants according to the 1940 Federal Census. Acts 1949, 51st Leg., p. 378, ch. 201.

Emergency. Effective May 14, 1949.

Sections 10-13 of the act of 1949, read as follows:

"Sec. 10. Any laws conflicting with the provisions of this Act to the extent and only to the extent of such conflict are hereby repealed.

"Sec. 11. This Act shall be known as Article 8161d, Vernon's Civil Statutes.

"Sec. 12. 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 any other reason, it shall

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

not affect any other word, phrase, clause, sentence, paragraph, section or part of this Act, it being the declared intention of the Legislature to pass any valid portions of this Act irrespective of the invalidity of any other portions thereof.

"Sec. 13. All drainage districts within the purview of this Act heretofore created are in all things validated and any and all Acts heretofore performed, or done by the districts or in relation to the districts or in connection with the districts are in all things validated."

## IV. CONSERVATION AND RECLAMATION

### CHAPTER EIGHT—CREATION OF DISTRICTS

#### Art. 8197f. Condemnation of cemeteries by conservation and reclamation districts and similar districts

The following laws, though passed as general laws, are in fact special acts relating to particular conservation and reclamation districts or authorities:

Brazos River Conservation and Reclamation District, Acts 1949, 51st Leg., p. 572, ch. 309.

Central Colorado River Authority, Acts 1949, 51st Leg., p. 572, ch. 309.

Colorado River Municipal Water District, Acts 1949, 51st Leg., p. 655, ch. 340.

Dallas County Flood Control District, Acts 1949, 51st Leg., p. 572, ch. 309; Acts 1949, 51st Leg., p. 711, ch. 374, §§ 1, 2.

Eastland County Water Supply District, Acts 1949, 51st Leg., p. 855, ch. 465.

Fort Bend County Drainage District, Acts 1949, 51st Leg., p. 550, ch. 303, §§ 1-6.

Harris County Flood Control District—Donation of Taxes, Acts 1949, 51st Leg., p. 572, ch. 309.

Harris County Flood Control District—Retirement and Compensation Fund, Acts 1949, 51st Leg., p. 371, ch. 196.

Jackson County, Fayette County and Colorado County Flood Control Districts—Donation of Taxes, Acts 1949, 51st Leg., p. 572, ch. 309.

Jim Wells—Duval Counties Conservation and Reclamation District, Acts 1949, 51st Leg., p. 737, ch. 398.

Lavaca County Flood Control District, Acts 1949, 51st Leg., p. 572, ch. 309.

Lower Colorado River Authority Created, Acts 1949, 51st Leg., p. 101, ch. 61, § 1.

Lower Neches Valley Authority, Acts 1949, 51st Leg., p. 1109, ch. 567, § 1.

Lower Nueces River Water Supply District, Acts 1949, 51st Leg., p. 326, ch. 159.

Matagorda County Water Control and Improvement District No. 1, Acts 1950, 51st Leg., 1st C.S., p. 107, ch. 40.

Neches Conservation District. The name of the Sabine-Neches Conservation District was changed to "Neches Conservation District" and certain territory was detached therefrom by the act creating the Sabine River Authority, Acts 1949, 51st Leg., p. 193, ch. 110.

Panhandle Water Conservation Authority, Acts 1949, 51st Leg., p. 676, ch. 349, § 1.

Sabine River Authority, Acts 1949, 51st Leg., p. 193, ch. 110.

San Antonio River Canal and Conservancy District, Acts 1949, 51st Leg., p. 554, ch. 304, §§ 1-5, as amended Acts 1949, 51st Leg., p. 1374, ch. 626, § 1.

San-Jacinto River Conservation and Reclamation District, Acts 1949, 51st Leg., p. 572, ch. 309.

Trinity Bay Conservation District, Acts 1949, 51st Leg., p. 510, ch. 282; Acts 1950, 51st Leg., 1st C.S., p. 116, ch. 45, § 1.

Upper Colorado River Authority Act, Acts 1949, 51st Leg., p. 572, ch. 309.



## V. NAVIGATION

### CHAPTER NINE—NAVIGATION DISTRICTS

#### 2. SPECIAL POWERS

##### A. PORT FACILITIES

Art.

8247e. Promotion and development funds in district containing city of 300,000 population [New].

#### 3. GENERAL PROVISIONS

Art.

8263j. Retirement and compensation fund; districts containing municipality of 300,000 population [New].  
8263k. Eminent domain; districts containing municipality of 300,000 population [New].

### 1. ORGANIZATION

#### Art. 8198. Scope of district

##### Special Acts

Aransas County Navigation District No. 1, see Acts 1949, 51st Leg., ch. 213.

Port of Beaumont Navigation District of Jefferson County, see Acts 1949, 51st Leg., p. 270, ch. 147; Acts 1950, 51st Leg., 1st C.S., p. 44, ch. 5.

### 2. SPECIAL POWERS

#### A. PORT FACILITIES

#### Art. 8245. Employees; county auditor, duties and compensation

Acts 1949, 51st Leg., p. 1068, ch. 52, § 2, provides that nothing in that act, which amends art. 1645, shall affect this article.

#### Art. 8247e. Promotion and development funds in districts containing city of 300,000 population

Section 1. It is recognized that navigation districts in this State containing cities of three hundred thousand (300,000) or more population and operating ports or waterways and the harbor and terminal facilities thereof, are in keen competition with other ports, waterways, harbors and terminals outside this State, as well as being in active competition with privately owned port and terminal facilities within this State; that well situated and equipped ports and waterways in other near-by States, as well as the owners of substantial port and terminal facilities located within and without this State have been and are advertising, promoting and developing such competing ports, waterways, harbors and terminals through spending large funds without any sort of auditing or restriction on or in connection with such expenditures; and that such activities and expenditures by the port authorities of such other near-by States and those of the owners of such competing port and terminal facilities within and without this State, have been and are thwarting and impeding the use, progress and development of the ports, waterways, harbors and terminals of this State, and that continuation of such hardship and injustice can best be met and coped with by more liberal use of some relatively small fund set aside from gross income from operations of such ports of this State, to be used in the manner hereinafter referred to.

Sec. 2. Any navigation district heretofore organized, or hereafter to be organized, under General or Special Law, which navigation district contains a municipality which has three hundred thousand (300,000) population or more by the last preceding or by any future Federal Cen-

sus, is hereby granted, in addition to all of the powers now conferred upon such navigation districts and in addition to the expenditures heretofore and now being customarily made by such navigation districts, the right, power and authority to set aside out of current income from its business operations a Promotion and Development Fund of not more than one per cent (1%) of its gross income from operations in each calendar year. From time to time such moneys shall be expended by the Commissioners of each such navigation district or as they may direct in payment of any expenses in connection with any activity or matter incidental to the advertising, development or promotion of such navigation district, or its port, waterway, harbor or terminal, or to furthering the general welfare of the same, or to the betterment of its relations with steamship and rail lines, shippers, consignees of freight, governmental officials or others interested or sought to be interested in such port, waterway, harbor or terminal.

Sec. 3. The moneys in each such Promotion and Development Fund shall be kept separate from all other funds and accounts of such navigation district, no amounts collected from assessing or levying taxes shall be placed in or mingled with said fund, and all of said fund shall be under the sole control of the Commissioners of such navigation district. Such Commissioners shall have full responsibility for auditing, approving and safeguarding the expenditure of said funds; County Auditors or auditors of such navigation districts shall not audit disbursements from said fund, but shall be entitled to monthly statements showing the date of each disbursement from said fund, the amount disbursed, the person or concern to whom disbursed and the general purpose of such disbursement; and such auditors shall have and exercise their usual supervision and control to assure that such Commissioners of each such navigation district set aside no more than one per cent (1%) of its gross income from operations in each calendar year in any such Promotion and Development Fund.

Sec. 4. It is expressly provided that neither the setting aside of such Promotion and Development Fund nor the use or disbursements therefrom shall affect payment of other expenses heretofore and now customarily approved, audited and paid out of the regular funds of such navigation districts; it being the purpose and intention of this Act to authorize use and disbursements from such Promotion and Development Fund for unusual purposes and occasions not covered by existing laws. Acts 1949, 51st Leg., p. 507, ch. 280.

*Emergency. Effective May 27, 1949.*

### 3. GENERAL PROVISIONS

**Art. 8263e. Creating self-liquidating and supporting districts, bond issues; authorizing loans from Reconstruction Finance Corporation**

#### **Optional six year terms**

Sec. 18-a. The Board of Navigation and Canal Commissioners of any Navigation District coming within the purview of this Act may by resolution duly adopted by such Board provide for six-year terms of office for Navigation and Canal Commissioners of said District; provided that the terms of office of such Navigation and Canal Commissioners shall be so arranged that one (1) will expire every two (2) years. At the first general election for the election of Navigation and Canal Commissioners next succeeding the adoption of the aforesaid resolution and held

in any District coming within the purview of this Act and availing itself of the provisions of this Section by the adoption of such resolution, there shall be elected three (3) Navigation and Canal Commissioners for such District, which Commissioners shall hold office for terms of two (2), four (4) and six (6) years, respectively; the respective terms of office of said three (3) Commissioners elected at such first general election shall be determined in the following manner and by the following method:

Such Commissioners, having been duly elected and after qualifying by taking the oath and bond now required by law, shall draw by lot and the Commissioner drawing the number One shall serve for two (2) years, the Commissioner drawing the number Two shall serve for four (4) years, and the Commissioner drawing the number Three shall serve for six (6) years. Upon expiration of the respective terms of said Commissioners the successor of each and all of them shall be elected thereafter for a term of six (6) years at a general election held in such District at the times and in the manner specified by this Act (Article 8263e, Vernon's Annotated Civil Statutes of Texas, Revision of 1925).

The Navigation and Canal Commissioners of such District shall hold office after election and qualification until their successor shall be elected and qualified. Nothing in this Section shall be construed as to prevent any Commissioner from succeeding himself. Vacancies in such Board of Navigation and Canal Commissioners shall be filled in the manner specified in Section 22 of said Act.

Navigation Districts created pursuant to Chapter 5 of the Acts of the Thirty-ninth Legislature in 1925, Regular Session, (Article 8263h, Vernon's Annotated Civil Statutes), may take advantage of this Act in the manner provided herein.

The provisions of this Section are declared to be cumulative of and in addition to all other Acts now in force as to Navigation Districts affected hereby. Added Acts 1949, 51st Leg., p. 148, ch. 92, § 1.

Emergency. Effective April 26, 1949.

## **Art. 8263h. Development and improvement of navigation of inland and coastal waters**

### **Preference lien on crops for water supplied**

Sec. 51. Any navigation district that shall lease, rent, furnish or supply water to any person, association of persons, water improvement district or corporation, for the purpose of irrigation shall, irrespective of contract, have a preference lien superior to every other lien upon the crop or crops raised upon the land thus irrigated;

Provided, however, that when any such navigation district shall obtain a water supply under contract with the United States, the Board of Directors of such district may, by resolution duly entered upon the minutes of the Board, and with consent of the Secretary of the Interior, waive such preference lien, in whole or in part. Added Acts 1949, 51st Leg., p. 1188, ch. 601, § 1.

### **Enforcement of lien**

Sec. 52. For the enforcement of the lien provided in the preceding Section, all navigation districts shall be entitled to all the rights and remedies prescribed by Title 84, Articles 5222 to 5239, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, for the enforcement of the lien as between landlord and tenant. The authority granted by

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

these Sections shall be cumulative of, and in addition to, the authority granted by other laws. Added Acts 1949, 51st Leg., p. 1188, ch. 601, § 1.

Emergency. Effective July 25, 1949.

Section 2 of the Act of 1949 read as follows:

"If any paragraph, clause, or provision

of this Act shall be held unconstitutional, the remainder hereof shall not be affected thereby but shall remain in full force and effect."

**Art. 8263j. Retirement and compensation fund; districts containing municipality of 300,000 population**

Section 1. The Commissioners of any navigation district heretofore organized or hereafter to be organized, under General or Special Law, which navigation district contains a municipality which has three hundred thousand (300,000) population or more by the last preceding or by any future Federal Census, shall have the right to provide for and administer a retirement, disability, and death compensation fund for such officers and employees of the district as the Commissioners may from time to time determine; and the Commissioners of said district shall have power and authority to adopt such plan or plans to effectuate the purpose of this Act, including such forms of insurance or annuities (either or both), all as may be deemed advisable by said Commissioners; provided they are authorized to do so by a majority vote of the qualified voters of the district in an election, notice of which, containing a synopsis of such plan or plans, has been published in at least one (1) newspaper of general circulation in said district once each week for four (4) consecutive weeks; and provided further that said Commissioners shall have the power and authority from time to time, after notice to the public and their employees and a hearing thereon, to change any such plan, rule or regulation.

Sec. 2. All funds provided from the compensation of such officers or employees, and by the district, for such retirement, disability, and death compensation fund, after they are received by the district, shall be invested in either or both of the following ways: (1) in bonds of the United States, the State of Texas, or County or City or other governmental subdivisions of this State, or in bonds issued by any agency of the United States Government, the payment of the principal and interest on which is guaranteed by the United States, provided that a sufficient amount of said fund shall be kept on hand to meet the immediate payment of amounts likely to become due each year out of said fund, such amount of funds to be kept on hand to be determined by the Commissioners of the district with the approval of the County Auditor; or (2) in such life insurance policies, endowment or annuity contracts, or interest-bearing certificates of legal reserve life insurance company or companies authorized to write such contracts in Texas, as may be determined by the Commissioners of the district; provided that said Commissioners shall have power and authority, from time to time, as they may deem advisable, to change from one of said ways of investment to the other, or any combination of the two; and provided that the recipients or beneficiaries 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 district, is released to the State of Texas as a condition precedent to receiving such other pension aid.

Sec. 3. The Commissioners of any navigation district heretofore organized or hereafter to be organized, under General or Special Law, which navigation district contains a municipality which has three hundred thousand (300,000) population or more by the last preceding or by any future Federal Census, shall have the right to include hospitaliza-

tion and medical benefits to their officers and employees as part of the compensation currently paid to such officers and employees by such districts, all as may be provided for in any plan, rule or regulation from time to time made by said Commissioners, or otherwise as said Commissioners may determine, provided that said Commissioners shall have power and authority from time to time to change any such plan, rule or regulation.

Sec. 4. This Act shall be cumulative of other laws governing such navigation districts, and shall not be construed to repeal any other Statutes or regulations for the government of such districts, except to the extent that this Act may conflict therewith, in which event this Act shall control. All other Statutes governing such navigation districts, or applying to them and regulating the handling of their accounts, the payment of money and the time, method and manner of making reports and all other matters shall continue in full force and effect and shall regulate the handling of funds under this Act, except as otherwise herein expressly provided.

Sec. 5. If any part of this Act shall be held to be unconstitutional or void, such action shall not affect the other portions of this Act. Acts 1949, 51st Leg., p. 405, ch. 216.

Emergency. Effective May 14, 1949.

**Art. 8263k. Eminent domain; districts containing municipality of 300,000 population**

Section 1. Any navigation district heretofore organized, or hereafter to be organized, under General or Special Law, which navigation district contains a municipality which has three hundred thousand (300,000) population or more by the last preceding or by any future Federal Census, is hereby granted, in addition to all the powers now conferred upon such navigation districts, the following rights, powers, and authority in relation to eminent domain proceedings:

In eminent domain proceedings brought by any such navigation district, the navigation district shall not be required to give security for costs at any stage of the proceedings. In the event that the navigation district should desire to take possession of the property sought to be condemned, it may do so at any time after the award of the condemnation commissioners in the eminent domain proceedings shall have been filed with the judge of the court in which the said proceedings are pending, upon deposit with the clerk of the said court of the amount of the award. Such navigation district shall not be required to deposit any further sums, nor to give any bond for costs. The resolution of the commissioners of the navigation district as to the improvement to be made, the plan of the work, the necessity, the location, type of improvement, and whether the land being condemned shall be taken in fee or only an easement or some other interest, shall be final, and such resolution of the commissioners of the navigation district shall not be subject to review except upon the basis that the same is purely arbitrary and capricious or upon proof of actual fraud or malfeasance in office; provided, however, that said navigation district shall not have authority to condemn the fee of, as distinguished from an easement or right-of-way over, across or upon, any property lawfully used or occupied by any public utility, railroad, canal, levee or other person, concern, corporation or body politic devoting its property to a public use.

Sec. 2. If any part of this Act shall be held to be unconstitutional or void, such action shall not affect the other portions of this law. Acts 1949, 51st Leg., p. 407, ch. 217.

Emergency. Effective May 14, 1949.

## VI. GENERAL PROVISIONS [New]

## CHAPTER 11. IN GENERAL

Art.  
8280—2. Withdrawing land in city of 13,305 to 14,310 population from irrigation, water improvement or water control and improvement district.

Art.  
8280—3. Water control and improvement districts and water improvement districts; exclusion of urban property [New].

8280—4. Districts with 81,700 to 82,100 acres; exclusion of land within city, town or village [New].

**Art. 8280—2. Withdrawing land in city of 13,305 to 14,310 population from irrigation, water improvement or water control and improvement district**

Section 1. Whenever in this Act the word "incorporated city" is used, it shall mean any city incorporated under the General Laws or under a special charter granted by the Legislature, or incorporated under what is known as the Home Rule Amendment to the Constitution, and having a population of more than thirteen thousand, three hundred and five (13,305) and less than fourteen thousand, three hundred and ten (14,310) inhabitants at the time of taking of the Federal Census of 1940.

Whenever in this Act the word "district" or "districts" is used, it shall mean any incorporated irrigation district, water improvement district, or water control and improvement district, having a total area of more than forty-three thousand, five hundred (43,500) acres and less than forty-six thousand, five hundred (46,500) acres as of January 1, 1948.

Sec. 2. Whenever there is included within the limits of any incorporated city any lands forming part of any one or more of the districts as above defined; or where any lands forming part of any one or more of the districts as above defined are subsequently incorporated within or annexed to the city limits of any incorporated city, the owner or owners of all or any part of said land or lands, shall have the right to have same excluded from, and taken out of any one or more of said districts, of which said land or lands form a part, by filing an application with the governing body of said district or districts requesting said lands to be so excluded for the reason that the same is a part of, an incorporated city or town, and said petition shall be granted upon proof of that fact, as a matter of right by entering upon the minutes of said district or districts an order excluding said land or lands from said district or districts; and thereafter said land or lands shall cease to be a part of said district or districts, and thereafter said land or lands shall not be subject to any other taxes, charges, or assessments by said district or districts except for its proportionate part of the bonded indebtedness existing against said district or districts, provided, however, that the provisions of this Act shall only apply to said cities and districts as above defined.

Sec. 3. Whenever any territory shall be excluded from a district as provided herein, and said district shall, at the time of such withdrawal owe any debts by bond or otherwise, such withdrawn territory shall not be released from the payment of its prorata of such indebtedness; but it shall be the duty of said district to continue to levy ad valorem taxes each year on the property in such territory at the same rate as is levied upon other property of such district, until the taxes collected from said territory shall equal its prorata share of the bonded indebted-

edness of said district at the time of withdrawal. The taxes so collected shall be charged only with the cost of levying and collecting same, and the same shall be applied exclusively to the payment of said prorata share of indebtedness. Nothing herein shall be construed to prevent the owner of any lands in said territory from paying in full, at any time, his prorata share of the indebtedness, both principal and interest, of said district.

Sec. 4. The City Commission of the city, at the next general or special election of said city, after the exclusion of any land from a district, shall submit to the legally qualified property-taxpaying voters residing within the territorial limits of said city printed ballots containing the following propositions to be voted on thereat:

“FOR assumption by the city of all bonded indebtedness owing to the district on territory annexed by the city and excluded from the district and levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge such bonded indebtedness.”

“AGAINST the assumption by the city of all bonded indebtedness owing to the district on territory annexed by the city and excluded from the district and levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge such bonded indebtedness.”

And if at such election a majority of the legally qualified taxpaying voters residing within the territorial limits of such city shall vote in favor of the assumption of such indebtedness, said city shall thereby assume all of said bonded indebtedness on the territory within the city and due such district, and shall from thenceforth, out of taxes collected, pay the said district said bonded indebtedness owing to such district as same become due and payable. The order of election shall describe the territory subject to said bonded indebtedness and the election shall be ordered by the city commissioners and the returns canvassed and results declared as is provided by law for other elections pertaining to said city.

Sec. 5. In the event any provision of this Act be held unconstitutional, same shall not affect the remaining parts, and said remaining parts shall remain in full force and effect. Acts 1949, 51st Leg., p. 68, ch. 37.

Emergency. Effective March 11, 1949.

Title of Act:

An Act providing means for owners of land in an incorporated city to remove said land from water district of which it is a part; removing water district taxes, charges and assessments from said land except proportionate part of bonded debt; providing for levy of tax each year until prorata

share of bonded debt is paid; authorizing city commission to submit to qualified voters of city question of assumption of bonded indebtedness of new territory; providing for payment of water district tax by city if election successful; providing a saving clause; and declaring an emergency. Acts 1949, 51st Leg., p. 68, ch. 37.

### Art. 8280—3. Water control and improvement districts and water improvement districts; exclusion of urban property

#### Definitions.

Section 1. The term “Urban Property” as used in this Act, for the purposes of this Act, means land which has been or may be subdivided into town lots, or town lots and blocks, or small parcels of the same general nature of town lots, or town blocks and lots, designed, intended, or suitable for residential or other non-agricultural purposes, as distinguished from farm acreage; including streets, alleys, parkways and parks that may be included in such subdivision; whether such subdivision be within or near any established city, town or village, or not; the

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

plat or map of which subdivision shall have been duly filed for record and recorded in the office of the County Clerk of the county in which such subdivision or any part thereof is situated, pursuant to authority duly given as provided by law. Urban property shall not be deemed to include land which is or has been within one year previous to the filing of the application hereinafter provided for, used for farming or agricultural purposes; neither shall the same be deemed to include all or any part of any oil or gas field.

The term "District" as herein used, means a water control and improvement district now existing or hereafter created for the principal purpose of, or principally engaged in, furnishing water for farm irrigation purposes, and whose main supply canal first enters its boundaries at a point not less than 10 miles nor more than 20 miles from the point where its principal water supply is diverted from the source of such supply, and the farthest portion of whose territory from the point where said main supply canal first enters its boundaries is not less than 15 miles nor more than 20 miles from such point of entry.

**Urban property may be excluded; conditions**

Sec. 2. Urban property contained within the boundaries of a district and subject to taxation thereby, may be excluded from such district in the manner and upon the conditions hereinafter set forth, after there shall have first been paid to the district all taxes, assessments and other lawful charges of said district accrued thereon, together with all lawful interest and penalties accrued on such taxes, assessments and charges, and after there shall have been paid to such district the proportionate part of the outstanding bonded indebtedness of said district for which the property proposed to be excluded is liable, determined in the manner hereinafter provided.

**Application for exclusion**

Sec. 3. The owner or owners of urban property contained within the boundaries of a district and subject to taxation thereby, and on which all taxes, assessments and other lawful charges, and penalties and interest, which have accrued to such district shall have been paid, may make written sworn application to such district to exclude such property from such district. Such application shall be acknowledged by the owner or owners of such property as in case of deeds; shall describe the property desired to be excluded by lot and/or block number of the subdivision according to the name or designation of such subdivision as shown by and on the recorded plat thereof, or otherwise to clearly identify the same; shall state that said property is used or intended to be used for the purposes for which it was so subdivided, and that the same is not used or intended to be used, in whole or in part, for agricultural purposes; and shall accompany such application with a correct copy of the recorded map or plat of such subdivision and clearly delineate thereon the part or portion of the subdivision, if less than the whole, desired to be excluded from the district. The applicant or applicants shall also furnish to the district, evidence satisfactory to, or required by, the Board of Directors of the district, of the ownership by the applicant or applicants of the property proposed to be excluded, and of the right of the applicant or applicants to have the same excluded from the district.

**Determination by board of directors**

Sec. 4. The Board of Directors of the district shall, as soon as practicable after the filing of said application, consider the same, and enquire into all the facts relating thereto deemed by said board to be necessary



to a determination of whether or not such application should be granted. If such board, after such consideration and investigation, finds and is satisfied that all taxes, assessments and charges of the district on or against said property, and interest and penalties thereon, that have become due to the district up to the date of the filing of said application, have been paid; that the property described in said application is owned by the applicant or applicants, and is urban property, as herein defined; and is not used or intended to be used for agricultural purposes; that said property is all in one contiguous or continuous body (except for bisecting subdivision lines); that the same constitutes in quantity of land not less than a standard city block, unless the same is all of the subdivision that is within the boundaries of the district; that the exclusion of such property will not cut the district or its facilities off from ready and convenient access to other land remaining in the district for irrigation or other district purposes; and that it would be to the interest and advantage of the district and its bondholders and of such urban property that the same be excluded from the district, the board may pass an order approving such application; otherwise, said application shall be rejected, and the decision and order of said board rejecting said application shall be final and not subject to review by any other body or tribunal or authority.

If said board so approves said application it shall proceed to determine the proportionate amount of the bonded indebtedness that the property so to be excluded is liable for, in the following manner and on the following basis:

The board shall cause the Tax Assessor and Collector of the district to ascertain and officially certify the average annual assessed valuation of all the property proposed to be excluded for the five years next preceding the year in which such application is filed, as shown by the assessment rolls of the district; and also the total assessed valuation of all taxable property within the district according to the then most recent assessment rolls of the district. Such findings of the Tax Assessor and Collector shall be audited by the board of directors and corrected if found by it to be erroneous. The part of the total outstanding bonded indebtedness of the district to be paid by said applicant or applicants as a condition precedent to the exclusion of said property, shall be that proportion thereof, including unpaid interest thereon calculated to date of such order, that the average annual assessed valuation of the property to be excluded, ascertained as above provided, bears to the total assessed valuation of all taxable property within the district according to its then most recent assessment rolls. The order of the board of directors approving such application shall also set forth the amount of the said bonded indebtedness required to be paid as a condition of the exclusion of said property determined as aforesaid.

#### **Deposit of apportionable part of bonded indebtedness**

Sec. 5. The order of the board of directors approving said application shall have no force or effect, and no further proceedings shall be had on said application, unless the applicant or applicants, within twenty days after the passing of said order, or such further time, not exceeding thirty days, as may be allowed and ordered by said board, deposit with the district the part of the bonded indebtedness of the district apportionable to the property to be excluded, determined and set forth in said order as above provided.

#### **Notice and hearing**

Sec. 6. If such deposit is so made within the time so limited, the board of directors shall set said application down for public hearing to

be held at the regular office of the district not less than fifteen days nor more than thirty days after the date of the ordering of such hearing.

The board of directors shall cause notice of said hearing to be given by posting the same in a conspicuous place in the office of the district, at the court house door of the county in which the property proposed to be excluded is situated, at a conspicuous place on or near said property, and at two other public places within the district, at least ten days before the date of such hearing.

Said notice shall be addressed to all taxpayers and bond holders of the district (naming it) and all persons interested in the property proposed to be excluded; shall state the names of the applicants and contain a description of the property proposed to be excluded, the time and place of the hearing, and state the amount ascertained as the proportionate part of the bonded indebtedness for which said property is liable; and shall contain substantially the following statement: "All taxpayers and bondholders of said district and all persons interested in the property proposed to be excluded, or any part thereof, may appear at said hearing, in person or by attorney, and show cause, if any they have, why said application should not be granted or why it should be granted" and shall be signed by the Secretary of said board. Said hearing may, at the discretion of the board, be adjourned from time to time, in order to give all persons appearing and entitled to be heard on the subject an opportunity to do so.

#### Orders

Sec. 7. If as a result of said hearing said board should determine that for any reason said application should not be granted, it shall pass an order rejecting the same, and the deposit made by the applicant or applicants shall be subject to withdrawal by such applicants or on their order. The order rejecting said application shall not be subject to review by any other body, tribunal or authority than said board of directors.

But if, as a result of said hearing, said board of directors should determine that it would be to the interest and advantage of the district, its bondholders, and to the property proposed to be excluded, that said application be granted, it shall pass its final order to that effect, describing the property excluded, ordering the amount deposited by the applicants on account of the bonded indebtedness of the district placed in the bond interest and sinking fund of the district, and reciting that said property shall no longer be a part of the district or liable for any indebtedness of or further taxation or assessment by the district.

A certified copy of said final order, certified to and acknowledged by the secretary of said board of directors may be recorded in the deed records of the county in which the excluded property is situated, as evidence of such exclusion.

#### Effect of order of exclusion

Sec. 8. From and after the passage of said final order the property excluded thereby shall constitute no part of such district and shall have no further liability to said district, nor for any bonded or other indebtedness of such district, and shall not be further subject to taxation thereby. Acts 1949, 51st Leg., p. 648, ch. 336.

Emergency. Effective June 8, 1949.

#### Title of Act:

An Act authorizing certain types of property defined therein as "Urban Property", situated within, and subject to taxation by, certain types of water control and improvement districts or water im-

provement districts, described in the Act, now existing or hereafter to be created, to be excluded from such districts by proceedings and upon conditions prescribed in the Act; and declaring an emergency. Acts, 1949, 51st Leg., p. 648, ch. 336.

Art. 8280—4. Districts with 81,700 to 82,100 acres; exclusion of land within city, town or village

Section 1. Whenever in this Act the word "city" is used, it shall mean any city, town, or village incorporated as a city under the General Laws or under a special charter granted by the Legislature, or incorporated under what is generally known as the Home Rule Amendment to the Constitution of the State of Texas.

Whenever in this Act the word "district" or "districts" is used, it shall mean any incorporated irrigation district, water improvement district, or water control and improvement district, having a total area of more than eighty-one thousand, seven hundred (81,700) acres and less than eighty-two thousand, one hundred (82,100) acres as of January 1, 1948, the area of which lies in two (2) or more counties.

Sec. 2. Whenever there is included within the limits of any incorporated city any lands forming part of any one (1) or more of the districts as above-defined; or where any lands forming part of any one (1) or more of the districts as above-defined are subsequently incorporated within or annexed to the city limits of any incorporated city, the owner or owners of all or any part of said land or lands, according to terms and conditions hereinafter set forth, shall have the right to have same excluded from, and taken out of any one (1) or more of said districts, of which said land or lands form a part; and no other action shall be required to so exclude such land or lands than the entering upon the minutes of any such district or districts of an order excluding said land or lands from said district or districts; and thereafter said land or lands shall cease to be a part of said district or districts, and thereafter said land or lands shall not be subject to any other taxes, charges, or assessments by said district or districts except for its proportionate part of the bonded indebtedness existing against said district or districts, provided that thereafter such district shall be under no further obligation to furnish water to the land or lands so excluded for domestic or irrigation purposes, and the provisions of this Act shall only apply to said cities and districts as above-defined.

Sec. 3. Either the owner or owners of land or lands in an incorporated city or whose land or lands is subsequently annexed thereto, each acting individually, or the city in whose boundaries said land is located or which subsequently annexes such land, acting for all such land owners, may file with the governing body of said district or districts an application requesting said land or lands to be excluded, which application shall be accompanied by a certificate by the Mayor or City Secretary of the city in whose boundaries said land is located certifying that the land is within the corporate limits of said city, and presenting a finding of fact by the governing body of said city that said land or lands are at such time urban in character, and no longer suitable for farming purposes. The governing body of said district shall at its first meeting after receipt of such application, or as soon thereafter as practicable, call a public hearing before said governing body for a date not less than fifteen (15) days nor more than sixty (60) days of receipt of such application for the purpose of hearing testimony and considering evidence to determine whether or not said land or lands, or any part thereof, have been actually annexed to said city and are in fact urban in character and no longer suitable for agricultural purposes, and whether or not it would be to the best interest of all parties concerned and in the interest of the public welfare to exclude said lands; and if at such hearing the governing body of said district should affirmatively find and determine by formal order duly adopted and spread upon its

minutes that said lands have been actually annexed to said city and that same are in fact urban in character and are no longer suitable for agricultural purposes and that it would be to the best interest of all parties concerned and in the interest of the public welfare to exclude said lands then the owner or owners thereof shall have the right to have such lands excluded from said district. Should either the city or cities involved, or the owner or owners of land thus involved disagree with the findings of the governing body of said district, then upon the petition of any party thus involved, the District Court having jurisdiction of the land in controversy shall have jurisdiction to try and enter final judgment settling all controversies between cities, districts, and individuals arising out of administration of this Act.

Sec. 4. Whenever any territory shall be excluded from a district as provided herein, and said district shall, at the time of such withdrawal owe any debts by bond or otherwise, such withdrawn territory shall not be released from the payment of its pro-rata of such indebtedness; but it shall be the duty of said district to continue to levy ad valorem taxes each year on the property in such territory at the same rate as is levied upon other property of such district, until the taxes collected from said territory shall equal its prorata share of the bonded indebtedness of said district at the time of withdrawal. The taxes so collected shall be charged only with the cost of levying and collecting same, and the same shall be applied exclusively to the payment of said prorata share of indebtedness. Nothing herein shall be construed to prevent the owner of any lands in said territory from paying in full, at any time, his prorata share of the indebtedness, both principal and interest, of said district.

Sec. 5. The City Commission of the city, at the next general or special election of said city, after the exclusion of any land from a district, shall submit to the legally qualified property taxpaying voters residing within the territorial limits of said city printed ballots containing the following propositions to be voted on thereat:

"For assumption by the city of all bonded indebtedness owing to the district on territory annexed by the city and excluded from the district and levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge such bonded indebtedness."

"Against the assumption by the city of all bonded indebtedness owing to the district on territory annexed by the city and excluded from the district and levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge such bonded indebtedness."

And if at such election a majority of the legally qualified taxpaying voters residing within the territorial limits of such city shall vote in favor of the assumption of such indebtedness, said city shall thereby assume all of said bonded indebtedness on the territory within the city and due such district and shall from thenceforth, out of taxes collected, pay the said district said bonded indebtedness owing to such district as same become due and payable. The order of election shall describe the territory subject to said bonded indebtedness and the election shall be ordered by the City Commissioners and the returns canvassed and results declared as is provided by law for other elections pertaining to said city.

Sec. 6. In the event any provision of this Act be held unconstitutional, same shall not affect the remaining parts, and said remaining parts shall remain in full force and effect. Acts 1949, 51st Leg., p. 931, ch. 505.

Emergency. Effective June 29, 1949.

**TITLE 129—WILLS****Art. 8293. 7867, 5345, 4869 Validity**

Every last will and testament made when the testator had no child living, wherein any child he might have is not provided for or mentioned, if at the time of his death he shall leave a child, or leave his wife enciente of a child which shall be born, shall have no effect during the life of such afterborn child, and shall be void, unless the child die without having been married and before he shall have attained the age of twenty-one (21) years, provided, however, that where the surviving wife is the mother of all of testator's children and said surviving wife is the principal beneficiary in said testator's last will and testament to the entire exclusion, by silence or otherwise, of all of said testator's children, then and in that event the foregoing provisions of this Article shall not apply or be considered in the construction of said last will and testament. As amended Acts 1949, 51st Leg., p. 218, ch. 120, § 1.

Emergency. Effective May 3, 1949.

## TITLE 130—WORKMEN'S COMPENSATION LAW

### PART IV

Art.

8309c. County employees [New].

### PART 4

Art. 8309b. Agricultural and Mechanical College Directors, Workmen's compensation insurance for employees under

#### Definitions

Sec. 2.

2. "Workman" shall mean every person employed in the service of any institution as defined above, whose name appears on the pay-roll thereof, except the following:

- (a) Administrative Staff including officers of administration;
- (b) Teaching Staff;
- (c) Research, Extension, and Regulatory Staff;
- (d) Clerical and Stenographic Staff;

(e) No person in the service of any institution as defined above who is paid on a piece-work basis, or on any basis other than by the hour, day, week, month, or year, shall be considered an employee and entitled to compensation under the terms and provisions of this Act. As amended Acts 1949, 51st Leg., p. 840, ch. 457, § 1.

7. Repealed. Acts 1949, 51st Leg., p. 840, ch. 457, § 2.

#### Compensation for injury in course of employment

Sec. 4. If a workman of the institution sustains an injury in the course of his employment, he shall be paid compensation by the institution as herein provided except that compensation for any person employed on less than a full work-day basis shall not exceed sixty (60%) per cent of his average weekly earning. As amended Acts 1949, 51st Leg., p. 840, ch. 457, § 3.

#### Laws governing

Sec. 7. Unless otherwise provided herein, Section 6, as amended by Acts 1927, 40th Legislature, page 84, Chapter 60, Section 1; 7; 7b; 7c; 8, as amended by House Bill No. 10, Acts 1947, 50th Legislature; 8a; 8b; 9, as amended by Acts 1931, 42nd Legislature, page 303, Chapter 178; 10, as amended by House Bill No. 10, Acts 1947, 50th Legislature; 11, as amended by House Bill No. 10, Acts 1947, 50th Legislature; 11a, Acts 1927, 40th Legislature, page 41, Chapter 28, Section 1; 12, as amended by House Bill No. 10, Acts 1947, 50th Legislature; 12a; 12b; 12c; 12d, as amended by Acts 1931, 42nd Legislature, page 260, Chapter 155, Section 1; 12e; 12f; 12i, as amended by Acts 1931, 42nd Legislature, page 259, Chapter 154, Section 1; 13; 15; 15a; 16; 17; 19, as amended by Acts 1927, 40th Legislature, page 383, Chapter 259, Section 1, as amended by Acts 1931, 42nd Legislature, page 133, Chapter 90, Section 1; 20; 21; 22; 23; 24; 25; 26; 27, as added by Senate Bill No. 40, Acts 1947, 50th Legislature; Acts 1931, 42nd Legislature, page 415, Chapter 248, Section 1, all being Sections of Article 8306 of the Revised Civil Statutes of Texas, 1925, as amended; Section 4a, as amended by Senate Bill No. 40, Acts 1947, 50th Legislature; 6a; 11; and 12 of Article 8307 of the Revised Civil Statutes of Texas, 1925; and 13 and 14 of Article 8307, as added by Senate Bill No. 40, Acts 1947, 50th Legislature; and

Sections 4 and 5 of Article 8309 of the Revised Civil Statutes of Texas, 1925, and Senate Bill No. 64, Acts Regular Session, 45th Legislature, are hereby adopted and shall govern insofar as applicable under the provisions of this law. Provided that whenever in the above adopted Sections of Articles 8306, 8307, and 8309 of the Revised Civil Statutes of Texas, 1925, the words "association", "subscriber", or "employer", or their equivalents appear in such Articles, they shall be construed to and shall mean "the institution". As amended Acts 1949, 51st Leg., p. 840, ch. 457, § 4.

Amendments to sections 2, 4, 7, by Acts 1949, 51st Leg., p. 840, ch. 457, effective June 21, 1949.

Section 5 of Acts 1949, 51st Leg., p. 840, ch. 457, read as follows:

"If any section, sentence, clause or part of this Act is for any reason held to be unconstitutional, such decision shall not

affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each sentence, clause and part thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional."

### Art. 8309c. County employees

#### Constitutional authority

Section 1. By virtue of the provisions of Section 60, Article III of the Constitution of the State Texas granting the Legislature power to pass such laws as may be necessary to enable all counties of this State to provide for Workmen's Compensation Insurance, including the right to provide its own insurance risk, for all county employees as in its judgment is necessary or required, and to provide for the administration of such insurance in the counties of this State and to provide for the payment of all cost, charges and premiums on such policies of insurance and the benefits to be paid thereunder, provision is made as hereinafter set forth.

#### Definitions

Sec. 2. The following words and phrases as used in this Law shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

1. "County" whenever used in this Law shall be held to mean any organized county in the State of Texas.

2. "Employee" shall mean every person in the service of the county who has been appointed in accordance with the provisions of the Law. No person in the service of the county who is paid on a piecework basis or on a basis other than by the hour, day, week, month or year shall be considered an employee and entitled to compensation under terms of the provisions of this Act.

3. "Insurance" shall mean Workmen's Compensation Insurance.

4. "Board" shall mean the Industrial Accident Board of the State of Texas.

5. "Legal beneficiaries" shall mean the relatives named in Section 8a of Article 8306, of Revised Civil Statutes of Texas, 1925, adopted in Section 7 of this Law.

6. "Average weekly wages" shall be as defined in Section 1, Article 8309 of Revised Civil Statutes of Texas, 1925.

7. The terms "injury" or "personal injuries" and "injury sustained in the course of employment" shall be as defined in Section 1 of Article 8309 of Revised Civil Statutes of Texas, 1925.

8. Any reference to an employee herein who has been injured shall, when the employee is dead, also include the legal beneficiaries as that term is herein used, of such employee to whom compensation may be

payable. Whenever in this Law the singular is used, the plural shall be included, whenever the masculine gender is used, the feminine and neuter shall be included.

**Authority of county; order; notice; acceptance by employees**

Sec. 3. The county is hereby authorized to either be self-insuring or it may purchase Workmen's Compensation Insurance for its employees from any company authorized to do business in Texas and is charged with the administration of this Act. It is expressly understood that the provision authorizing counties to provide such compensation or insurance is permissive and not mandatory. The Commissioners Court may by proper order put into effect the provisions of this Act. The Commissioners Court of the county shall notify the Board of the effective date of such insurance, stating in such notice the nature of the work performed by the employee of the county, the approximate number of employees, and the estimated amount of payroll.

The Commissioners Court of the county shall give notice to all workmen that effective at the time stated in such notice, the county has provided for payment of insurance.

Employees of the county shall be conclusively deemed to have accepted the provisions hereof in lieu of common law or statutory causes of action, if any, for injuries resulting in the course of their employment.

**Defenses to actions for injuries**

Sec. 4. In an action to recover damages for personal injuries sustained by an employee in the course of his employment or for death resulting from personal injuries so sustained, the county may defend in such action on the ground that the injury was caused by the wilful intention of the employee to bring about the injury or was so caused while the employee was in a state of intoxication.

**Exclusiveness of remedy; exemption from judicial process; assignments**

Sec. 5. Employees of the county and the parents of minor employees shall have no right of action against the officers, agents, servants or employees of the county for personal injuries, nor shall representatives and beneficiaries of deceased employees have a right of action against the officers, agents, servants, or employees of the county for injuries resulting in death; but such employees and their representatives and beneficiaries shall look for compensation solely to the insurer as provided in this Law. All compensation allowed herein shall be exempt from garnishment, attachment, judgment and all other suits or claims, and no such right of action and no such compensation and no part thereof nor of either shall be assignable except as otherwise herein provided; and any attempt to assign the same shall be void.

**Application of existing laws**

Sec. 6. Unless otherwise provided herein Section 5, as amended by Acts, 1927, Fortieth Legislature, page 84, Chapter 60, Sections 1, 7, 7b, 7c, 8, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature; 8a, 8b, 9, as amended by Acts, 1931, Forty-second Legislature, page 303, Chapter 178; 10, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature; 11, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature; 11a, Acts, 1927, Fortieth Legislature, page 41, Chapter 28, Section 1; 12, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature; 12a, 12b, 12c, 12d, as amended by Acts, 1931, Forty-second Legislature, page 260, Chapter 155, Section 1; 12e, 12f, 12i, as amended by



Acts, 1931, Forty-second Legislature, page 259, Chapter 154, Section 1; 13, 14, 15, 15a, 16, 17, 19, as amended by Acts, 1927, Fortieth Legislature, page 383, Chapter 259, Section 1, as amended by Acts, 1931, Forty-second Legislature, page 133, Chapter 90, Section 1; 20, 21, 22, 23, 24, 25, 26, 27, as added by Senate Bill No. 40, Acts, 1947, Fiftieth Legislature; Acts, 1931, Forty-second Legislature, page 415, Chapter 248, Section 1, all being Sections of Article 8306 of the Revised Civil Statutes of Texas, 1925, as amended; Section 4a, as amended by Senate Bill No. 40, Acts, 1947, Fiftieth Legislature; 6a, 11 and 12 of Article 8307 of the Revised Civil Statutes of Texas, 1925; and 13 and 14 of Article 8307, as added by Senate Bill No. 40, Acts, 1947, Fiftieth Legislature; and Sections 4 and 5 of Article 8309 of the Revised Civil Statutes of Texas, 1925, and Senate Bill No. 64, Acts Regular Session, Forty-fifth Legislature,<sup>1</sup> here hereby adopted and shall govern in so far as applicable under the provisions of this Law. Provided that whenever in the above adopted Sections of Articles 8306, 8307, and 8309 of the Revised Civil Statutes of Texas, 1925, the words "association," "subscriber," or "employer," or their equivalents appear in such Articles, they shall be construed to and shall mean "the County."

<sup>1</sup> Articles 8306, § 7d, 8307b.

#### **Attorneys' fees**

Sec. 7. For representing the interest of any claimant in any manner carried from the Board into the Courts, it shall be lawful for the attorney representing such interest to contract with any beneficiary under this Law for an attorney's fee for such representation, such fee to be determined as herein provided and, when the amount recovered exceeds the amount of the award appealed from, to include not more than one-third (1/3) of the amount by which the judgment exceeds the award, such fee for services so rendered to be determined and allowed by the trial Court in which such cause may be heard and determined.

#### **Payment of compensation**

Sec. 8. It is the purpose of this Law that the compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein.

#### **Medical examinations; insanitary or injurious practices; process and procedure**

Sec. 9. The Board may require any employee claiming to have sustained injury to submit himself for examination before such Board or someone acting under its authority at some reasonable time and place within the State, and as often as may be reasonably ordered by the Board to a physician or physicians authorized to practice under the Laws of this State. If the employee of the County requests, he or it shall be entitled to have a physician or physicians of his or its own selection present to participate in such examination. Refusal of the employee to submit to such examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended, no compensation shall be payable in respect to the period of suspension. If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment or other remedial treatment recognized by the State, as is reasonably essential to promote his recovery, the Board may in its discretion order or direct the county to reduce or suspend the compensation of any such injured employee. No compensation shall be reduced or suspended under the terms of this Section without reasonable notice to the employee and an opportunity to be heard.

The county shall have the privilege of having any injured employee examined by a physician or physicians of its own selection, at reasonable times, at a place or places suitable to the condition of the injured employee and convenient and accessible to him. The County shall pay for such examination and the reasonable expense incident to the injured employee in submitting thereto. The injured employee shall have the privilege to have a physician of his own selection present to participate in such examination. Provided, when such examination is directed by the Board or the county, the county shall pay the fee of the physician selected by the employee, such fee to be fixed by the Board.

Process and procedure shall be as summary as may be under this Act. The Board or any member thereof shall have power to subpoena witnesses, administer oaths, inquire into matters of fact, examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. All rulings and decisions of the Board relating to disputed claims shall be upon questions of fact and in accord with the provisions of this Act.

**Determination of questions by board; suits to set aside rulings; suits on orders, rulings or decisions; failure to continue payments**

Sec. 10. All questions arising under this Act, if not settled by agreement of the parties interested therein and within the provisions of this Act, shall, except as otherwise provided, be determined by the Board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of said Board shall within twenty (20) days after the rendition of said final ruling and decision by said Board, file with said Board notice that he will not abide by said final ruling and decision. And he shall within twenty (20) days after giving such notice bring suit in the county where the injury occurred to set aside said final ruling and decision and said Board shall proceed no further toward the adjustment of such claim, other than hereinafter provided. Whenever such suit is brought, the rights and liability of the parties thereto shall be determined by the provisions of this Act and the suit of the injured employee or person suing on account of the death of such employee shall be against the county. If the final order of the Board is against the county, then the county shall bring suit to set aside said final ruling and decision of the Board, if it so desires, and the court shall in either event determine the issues in such cause instead of the Board upon trial de novo and the burden of proof shall be upon the party claiming compensation. The Board shall furnish any interested party in said claim pending in Court upon request, free of charge, with a certified copy of the notice of the county becoming an insurer filed with the Board and the same when properly certified to shall be admissible in evidence in any Court in this State upon trial of such claim therein pending and shall be prima-facie proof of all facts stated in such notice in the trial of said cause unless same is denied under oath by the opposing party therein.

In case of recovery the same shall not exceed the maximum compensation allowed under the provisions of this Act. If any party to any such final ruling and decision of the Board, after having given notice as above provided, fails within said twenty (20) days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto, and, if the same is against the county, it shall at once comply with such final ruling and decision.

In all cases where the Board shall make a final order, ruling, or decision, as provided in the preceding Section and against the county, and the county shall fail and refuse to obey or comply with the same and shall fail or refuse to bring suit to set the same aside as in said Section

is provided, then in that event the claimant in addition to the rights and remedies given him and the Board in said Section may bring suit in a Court of competent jurisdiction, upon said order, ruling, or decision. If he secures a judgment sustaining such order, ruling, or decision in whole or in part, he shall also be entitled to recover the further sum of twelve per cent (12%) as damages upon the amount of compensation so recovered in said judgment, together with a reasonable attorney's fee for the prosecution and collection of such claim.

Where the Board has made an award against the county requiring the payment to an injured employee or his beneficiaries of any weekly or monthly payments, under the terms of this Law, and the county should thereafter fail or refuse, without justifiable cause, to continue to make said payments promptly as they mature, then the said injured employee or his beneficiaries, in case of his death, shall have the right to mature the entire claim and to institute suit thereon to collect the full amount thereof, together with twelve per cent (12%) penalties and attorney's fees as herein provided for. Suit may be brought under provisions of this Section, either in the county where the accident occurred, or in any county where the claimants reside, or where one (1) or more of such claimants may have his place of residence at the time of the institution of the suit.

#### **Record of injuries; reports**

Sec. 11. The county shall hereafter keep a record of all injuries fatal or otherwise, sustained by its employees in the course of their employment. Within eight (8) days after the occurrence of an accident resulting in an injury to an employee, causing his absence from work for more than one (1) day, a written report thereof shall be made to the Board on blanks to be procured from the Board for that purpose. Upon the termination of the incapacity of the injured employee, or if such incapacity extends beyond a period of sixty (60) days, the department shall make a supplemental report upon blanks to be procured for that purpose. The said report shall contain the name, age, sex, and occupation of the injured employee and the character of work in which he was engaged at the time of the injury, and shall state the place, date and hour of receiving such injury and the nature and cause of the injury and such other information as the Board may require. The county shall be responsible for the submission of the reports in the time specified in this Section.

#### **Rules and regulations; forms**

Sec. 12. The county is authorized to promulgate and publish such rules and regulations and to prescribe and furnish such forms as may be necessary to the effective administration of this Law, and the county shall have authority to make and enforce such rules for the prevention of accidents and injuries as may be deemed necessary.

#### **Order, award or proceeding as evidence; certified copies**

Sec. 13. Any order, award, or proceeding of said Board when duly attested by any member of the Board or its secretary shall be admissible as evidence of the act of said Board in any Court of this State.

Upon the written request and payment of the fees therefor, which fees shall be the same as those charged for similar services in the Secretary of State's office, the Board shall furnish to any person entitled thereto a certified copy of any order, award, decision, or paper on file in the office of said Board and the fees so received for such copies shall be paid into the State Treasury and credited to the General Revenue Fund; provided that the county shall be furnished such certified copies without

charge. No fee or salary shall be paid to any person in said Board for making such copies in excess of the fees charged for such copies.

**Venue of suit to set aside decision of board; transfer of suit brought in wrong county**

Sec. 14. Any interested party who is not willing and does not consent to abide by the final ruling and decision of the Board shall, in the manner and within the time provided by Section 11 of this Law, file notice with said Board, and bring suit in the county where the injury occurred to set aside said final ruling and decision; however, in the event such suit is brought in any county other than the county where the injury occurred, the Court in which same is filed shall upon ascertaining that it does not have jurisdiction to render judgment upon the merit, transfer the case to the proper Court in the county where the injury occurred. Provided, however, that notice of said transfer shall be given to the parties and said suit when filed in the Court to which the transfer is made, shall be considered for all purposes, the same as if originally filed in said Court.

**Time of hearing of claim**

Sec. 15. When an injured employee has sustained an injury in the course of employment and filed claim for compensation and given notice as required by Law, the Board shall hear his claim for compensation within a reasonable time. Provided, however, when such injured employee is being paid compensation as provided in this Act, and the county is furnishing either hospitalization or medical treatment to such employee, the Board may, within its discretion, delay or postpone the hearing of his claim and no appeal shall be taken from any such order made by the Board.

**Setting aside money for payments; account**

Sec. 16. The county is hereby authorized to set aside from available appropriations, other than itemized salary appropriations, an amount not to exceed five per cent (5%) of the annual employee payroll of the county for the payment of all costs, administrative expenses, charges, benefits, insurance and awards authorized by this Act.

The amount so set aside shall be set up in a separate account in the records of the county, which account shall show the disbursements authorized by this Act; provided the amount so set aside shall not exceed five per cent (5%) of the annual employee payroll at any one time. A statement of the amount set aside for the disbursements from said account shall be included in an annual report made to the County Treasurer and the Commissioners Court.

**Attorneys for county**

Sec. 17. The County Attorney or the Criminal District Attorney of the county shall be the regular representative of the county and is hereby given power and authority to bring and defend all suits and hearings necessary to carry out the provisions of this Act in all cases where the county is the insurer.

**Duties of clerks of court; filing judgment and copy**

Sec. 18. That in every case appealed from the Board to the District or County Court, the Clerk of such Court shall, within twenty (20) days after the filing thereof, mail to the Board a notice giving the style, number and date of the filing of such suit, and shall, within twenty (20) days after judgment is rendered in such suit, mail to the Board a certified copy of the

judgment. The duty devolved upon the District and County Clerks under this Act shall constitute a part of their regular duties and for such services they shall not be entitled to any fee. In every case the attorney preparing the judgment shall file the original and a copy of the same with the Clerk of the Court. However, the failure of such attorney to comply with this provision shall not excuse the failure of the Clerk of a District or County Court to mail a certified copy of such judgment to the Board as above provided. Any County or District Clerk who fails to comply with the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than Two Hundred and Fifty Dollars (\$250).

**Partial invalidity**

Sec. 19. If any Section, paragraph, or provision of this Act be 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. Acts 1949, 51st Leg., p. 797, ch. 428.

Emergency. Effective June 16, 1949.  
Section 20 of the act of 1949 provided  
that all laws and parts of laws in conflict

herewith are expressly suspended to the  
extent of such conflict.

# TEXAS RULES OF CIVIL PROCEDURE

## PART I. GENERAL RULES

**Rule 5. Enlargement.**—When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may, at any time in its discretion (a) with or without motion or notice, order the period enlarged if application therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or (b) upon motion permit the act to be done after the expiration of the specified period where good cause is shown for the failure to act; but it may not enlarge the period for taking any action under the rules relating to new trials or motions for rehearing except as stated in the rules relating thereto or the period for taking an appeal or writ of error from the trial court to any higher court or the period for application for writ of error in the Supreme Court, except as stated in the rules relating thereto; provided, however, if a motion for new trial, motion for rehearing, any matter relating to taking an appeal or writ of error from the trial court to any higher court, or application for writ of error is sent to the proper clerk by first-class United States mail in an envelope or wrapper properly addressed and stamped and is deposited in the mail one day or more before the last day for filing same, and the envelope or wrapper containing same bears a postmark showing such deposit, the same, if received by the clerk not more than ten days tardily, shall be filed by the clerk and be deemed filed in time. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Federal Rule 6(b), 28 U.S.C.A.

Change: The second clause in the Federal Rule requires a showing that the failure to act "was the result of excusable neglect." Also, specific reference is made in this rule to the time limitations relating to motions for new trial and for rehearings and to appeals and writs of error, while in the Federal Rule the cross reference to such subjects is by rule number.

Change by amendment effective March 1, 1950: The proviso at the end of the rule has been added.

## PART II. RULES OF PRACTICE IN DISTRICT AND COUNTY COURTS

### SECTION 8. PRE-TRIAL PROCEDURE

Rule  
166—A. Summary Judgment [New].

### SECTION 11. TRIAL OF CAUSES

#### H. JUDGMENTS

Rule  
308—A. In Child Support Cases [New].

## SECTION 4. PLEADINGS

## C. PLEADINGS OF DEFENDANTS

**Rule 84. Answer May Include Several Matters.**—The defendant in his answer may plead as many several matters, whether of law or fact, as he may think necessary for his defense, and which may be pertinent to the cause, and such pleas shall be heard in such order as may be directed by the court, plea of privilege and the practice thereunder being excepted herefrom. Amended by Order of Oct. 12, 1949, effective March 1, 1950.

Source: Arts. 2006 (part), 2012.

Change: These two articles have been combined with minor textual change. See also Rule 92 for balance of Art. 2006.

Change by amendment effective March 1, 1950: The requirement that defensive matters must be filed at the same time and in due order of pleading has been eliminated, and the provisions of the last clause have been changed to allow pleas to be heard in such order as the court may direct, excepting a plea of privilege.

**Rule 93. Certain Pleas to be Verified.**—A pleading setting up any of the following matters, unless the truth of such matters appear of record, shall be verified by affidavit.

- (a) That the suit is not commenced in the proper county.
- (b) That the plaintiff has not legal capacity to sue, or that the defendant has not legal capacity to be sued.
- (c) That the plaintiff is not entitled to recover in the capacity in which he sues, or that the defendant is not liable in the capacity in which he is sued.
- (d) That there is another suit pending in this State between the same parties involving the same claim.
- (e) That there is a defect of parties, plaintiff or defendant.
- (f) A denial of partnership as alleged in any pleading as to any party to the suit.
- (g) That any party alleged in any pleading to be a corporation is not incorporated as alleged.
- (h) Denial of the execution by himself or by his authority of any instrument in writing, upon which any pleading is founded, in whole or in part, and charged to have been executed by him or by his authority, and not alleged to be lost or destroyed. Where such instrument in writing is charged to have been executed by a person then deceased, the affidavit shall be sufficient if it state that the affiant has reason to believe and does believe that such instrument was not executed by the decedent or by his authority. In the absence of such a sworn plea, the instrument shall be received in evidence as fully proved.
- (i) A denial of the genuineness of the indorsement or assignment of a written instrument upon which suit is brought by an indorsee or assignee and in the absence of such a sworn plea, the indorsement or assignment thereof shall be held as fully proved. The denial required by this subdivision of the rule may be made upon information and belief.
- (j) That a written instrument upon which a pleading is founded is without consideration, or that the consideration of the same has failed in whole or in part.

For Annotations and Historical Notes, see Vernon's Texas Rules of Civil Procedure

(k) That an account which is the foundation of the plaintiff's action, and supported by an affidavit, is not just; and, in such case, the answer shall set forth the items and particulars which are unjust.

(l) That a contract sued upon is usurious. Unless such plea is filed, no evidence of usurious interest as a defense shall be received.

(m) That notice and proof of loss or claim for damage has not been given, as alleged. Unless such plea is filed such notice and proof shall be presumed and no evidence to the contrary shall be admitted. A denial of such notice or such proof shall be made specifically and with particularity.

(n) In the trial of any case appealed to the court from the Industrial Accident Board the following, if pleaded, shall be presumed to be true as pleaded and have been done and filed in legal time and manner, unless denied by verified pleadings:

(1) Notice of injury.

(2) Claim for compensation.

(3) Award of the Board.

(4) Notice of intention not to abide by the award of the Board.

(5) Filing of suit to set aside the award.

(6) That the insurance company alleged to have been the carrier of the workmen's compensation insurance at the time of the alleged injury was in fact the carrier thereof.

(7) That there was good cause for not filing claim with the Industrial Accident Board within the six months' period provided by statute.

A denial of any of the matters set forth in Sections (1) or (7) of this Subdivision (n) may be made on information and belief.

Any such denial may be made in original or amended pleadings; but if in amended pleadings the same must be filed not less than seven days before the case proceeds to trial. In case of such denial the things so denied shall not be presumed to be true, and if essential to the case of the party alleging them, must be proved.

(o) That a party plaintiff or defendant is not doing business under an assumed name or trade name as alleged.

(p) Any other matter required by statute to be pleaded under oath. Amended by Order of Oct. 12, 1949, effective March 1, 1950.

Source: Arts. 573, 574, 1999, 2010, 3734 and 5074.

Change: The basic statute relating to sworn pleadings was Art. 2010. With it have been combined provisions from a number of other specific statutes, requiring sworn pleas. No change of meaning has been intended in so far as the combinations, as such, are concerned. The scope of sworn denials has, however, been broadened. Subdivision (b) will under this rule include the plea that "the defendant has not legal capacity to be sued." Subdivision (c) has been extended to include a denial of defendant's liability in the capacity in which he is sued. In subdivision (d) the term "cause of action" has been replaced by the word "claim." Subdivisions (f) and (g) apply to allegations in any pleading, not merely to the petition as formerly stated in Art. 2010.

Change by amendment of March 31, 1941: Subdivisions (m) and (n) (Source: Art. 5546, and Acts 1937, 45th Leg., p. 535, ch. 261, sec. 2) and (o) added.

Change by amendment effective December 31, 1941: Section (6) has been added to subdivision (n).

Change by amendment effective December 31, 1943: Section (7) and the new sentence concerning Sections (1) and (7) have been added to subdivision (n) and minor textual changes have been made in the last paragraph of this subdivision.

Change by amendment effective March 1, 1950: A new subdivision, designated (o), has been added and the subdivision formerly lettered (o) has been designated (p).



**SECTION 8. PRE-TRIAL PROCEDURE**

**Rule 166-A. Summary Judgment.**—(a) For Claimant. A party seeking to recover upon a claim, counter-claim, or cross-claim or to obtain a declaratory judgment may, at any time after the adverse party has appeared or answered, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof.

(b) For Defending Party. A party against whom a claim, counter-claim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

(c) Motion and Proceedings Thereon. The motion shall be served at least ten days before the time specified for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

(d) Case Not Fully Adjudicated on Motion. If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) Form of Affidavits; Further Testimony. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions or by further affidavits.

(f) When Affidavits Are Unavailable. Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

New rule, effective March 1, 1950.

Source: Federal Rule 56, as originally promulgated, except that the following wording in subdivision (a) has been eliminated: "pleading in answer thereto has been served"; and in its places the following language has been substituted: "adverse party has appeared or answered."

**Rule 169. Admission of Facts and of Genuineness of Documents.**—At any time after the defendant has made appearance in the cause, or time therefor has elapsed, a party may deliver or cause to be delivered to any other party or his attorney of record a written request for the admission by such party of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matters of fact set forth by the request. Copies of the documents shall be delivered with the request unless copies have already been furnished. Whenever a party is represented by an attorney of record, delivery of a request for admissions shall be made to his attorney unless delivery to the party himself is ordered by the court. The request for admissions must state that it is made under this rule and that each of the matters of which an admission is requested shall be deemed admitted unless a sworn statement is delivered to the party requesting the admissions or his attorney as provided in this rule. Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than ten days after delivery thereof or within such further time as the court may allow on motion and notice, the party to whom the request is directed delivers or causes to be delivered to the party requesting the admission or his attorney of record a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters. Any admission made by a party pursuant to such request is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may be used against him in any other proceeding. A true copy of a request for admissions or of a sworn statement in reply thereto, together with proof of the delivery thereof as provided in Rule 21a, shall be filed promptly in the clerk's office by the party making such request or such sworn statement. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Federal Rule 36, with minor textual change.

Change by amendment effective December 31, 1941: The method of service is explained to be delivery, etc.

Change by amendment effective March 1, 1950: The third sentence, requiring delivery of the request for admissions to the adverse party's attorney, where he is represented by an attorney of record; the fourth sentence, requiring that the request state that it is made under this rule and the effect of failure to answer; and the last sentence, requiring the filing of copies in the clerk's office, have been added.

## SECTION 9. EVIDENCE AND DEPOSITIONS

### A. EVIDENCE

**Rule 185. Suit on Sworn Account.**—When any action or defense is founded upon an open account or other claim for goods, wares and merchandise, including any claim for a liquidated money demand based upon written contract or founded on business dealings between the parties, or is for personal service rendered, or labor done or labor or materials furnished, on which a systematic record has been kept, and is supported by the affidavit of the party, his agent or attorney taken before some officer authorized to administer oaths, to the effect that such claim is, within the knowledge of affiant, just and true, that it is due, and that all just and lawful offsets, payments and credits have been allowed, the same shall be taken as prima facie evidence thereof, unless the party resisting such

claim shall, before an announcement of ready for trial in said cause, file a written denial, under oath, stating that such claim is not just or true, in whole or in part, and if in part only, stating the items and particulars which are unjust; provided, that when such counter-affidavit shall be filed on the day of the trial the party asserting such verified claim shall have the right to postpone such cause for a reasonable time. When the opposite party fails to file such affidavit, he shall not be permitted to deny the claim, or any item therein, as the case may be. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 3736, unchanged.

Change by amendment effective March 1, 1950: The rule has been extended to include a claim for "labor done or labor or materials furnished"; and the provision that when a counter-affidavit is filed on the day of the trial the party asserting the claim shall have the right to continue the cause until the next term of court has been changed to the following: "the party asserting such verified claim shall have the right to postpone such cause for a reasonable time." Several textual changes not affecting the substance of the rule have also been made.

## B. DEPOSITIONS

**Rule 188. Of Adverse Party.**—These rules shall govern the taking of the deposition of the adverse party:

(a) Either party to a suit may examine the opposing party as a witness, upon interrogatories filed in the cause, and shall have the same process to obtain his testimony as in the case of any other witness.

(b) No notice of the filing of the interrogatories is necessary.

(c) A commission to take the answers of the party to the interrogatories shall be issued by the clerk or justice, and be executed and returned by any authorized officer as in other cases; provided, however, that no such ex parte deposition of an adverse party be permitted until ten days after issuance and service of citation, except upon order of the court.

(d) A copy of the interrogatories need not be served on the adverse party before a commission shall issue to take the answers thereto.

(e) The examination of the adverse party shall be conducted and testimony received in the same manner and according to the same rules which apply in the case of any other witness, subject to the provisions of this rule.

(f) The party interrogated may, in answer to questions propounded, state any matter connected with the cause and pertinent to the issue to be tried; and the adverse party may contradict the answers by any other competent testimony in the same manner as he might contradict the testimony of any other witness.

(g) If the party interrogated refuses to answer, the officer executing the commission shall certify such refusal; and any interrogatory which the party refuses to answer, or which he answers evasively, shall be taken as confessed.

(h) The party interrogated may, upon the trial of the case, take exception to the interrogatories on the ground that they are not pertinent, and to the answers that they are not competent evidence.

(i) It shall be no objection to the interrogatories that they are leading in their character.

For Annotations and Historical Notes, see *Vernon's Texas Rules of Civil Procedure*

(j) Where any party to a suit is a corporation, such corporation shall not be permitted to take ex parte depositions, nor shall any ex parte deposition be taken of the agents of such corporation, but if there are more than two parties to the suit ex parte depositions may be taken by or of any such parties to the suit, except the corporation or its agents. It is hereby expressly provided that any party to a suit wherein a corporation is a party shall have the right to take written and oral depositions of any party to such suit or of any witness, after giving notice and complying with the other requirements of the rules governing the taking of written or oral depositions of witnesses. It is further hereby expressly provided that when any ex parte deposition is taken in any suit whatever, either the party taking the same or the party giving the same shall have the right to introduce the deposition in evidence, subject to the general rules of evidence without regard to whether the person offering the same has crossed the interrogatories or not, and without regard to whether or not the witness who gave the deposition is present in court or has testified in the case. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 3769, unchanged.

Change by amendment effective March 1, 1950: The proviso under subdivision (c) has been added.

**Rule 202. Request For Issuance.**—Upon the application of any party to a suit who desires to take the oral deposition of a witness, the clerk of the court in which the cause is pending shall immediately issue a commission to take the deposition, fixing the time and place for the taking of the testimony as set out in the application. The officer authorized to take the deposition and to whom the commission is delivered shall immediately issue and cause to be served upon the witness a subpœna directing him to appear before said officer at the time and place, in the county of the residence of the witness, named in the commission for the purpose of giving his deposition; provided that where the witness is a party to the suit with an attorney of record, service of the subpœna in such case may be made upon the attorney representing the witness, and if the witness fails to appear in answer to the subpœna, except for good cause shown, such party shall not be permitted to present his grounds for relief or his defenses.

The deposition shall not be taken until the opposite party, or his attorney of record, has had the ten days' notice provided for in Rule 200. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 3755, unchanged.

Change by amendment effective December 31, 1947: The previous rule has been completely redrafted and its meaning has been materially altered.

Change by amendment effective March 1, 1950: The words "in the county of the residence of the witness" and the proviso in the second sentence have been added.

## SECTION 10. THE JURY IN COURT

**Rule 216. Fee.**—No jury trial shall be had in any civil suit, unless application be made therefor and unless a fee of five dollars if in the district court, and three dollars if in the county court, be deposited by the applicant with the clerk to the use of the county on or before appearance day or, if thereafter, a reasonable time before the date set for trial of the cause on the non-jury docket, but not less than ten days in advance. The clerk shall promptly enter a notation of the payment of such fee

upon the court's docket sheet. Amended by an order of Oct. 12, 1949, effective March 1, 1950.

Source: Arts. 2124 and 2125.

Change: The fee must be paid ten days or more before the case is set upon the non-jury docket.

Change by amendment of March 31, 1941: In the first sentence of the original rule the words "unless application be made therefor in open court and" have been interpolated after the first comma.

Change by amendment effective December 31, 1941: The words "the cause is set for trial" have been made to read "the date set for trial of the cause."

Change by amendment effective March 1, 1950: The words "in open court" have been deleted from the clause formerly reading "unless application be made therefor in open court."

## SECTION 11. TRIAL OF CAUSES

### D. CHARGE TO THE JURY

**Rule 273. Special Charges.**—Either party may present to the judge and request such written instructions, special issues, definitions or explanatory instructions, as he desires to be given to the jury; and the judge may give them or a part thereof, or he may refuse to give them, as he may see proper. Such requests shall be prepared and presented to the court and submitted to opposing counsel for examination and objection within a reasonable time after the charge is given to the parties or their attorneys for examination. A request by either party for any instructions, special issues, definitions or explanatory instructions shall be made separate and apart from such party's objections to the court's charge. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 2186.

Change: Addition of the words "and request" and "special issues, definitions or explanatory instructions" in the first clause, with minor textual changes in the remainder of the rule.

Change by amendment effective March 1, 1950: The last sentence has been added.

### H. JUDGMENTS

**Rule 308-A. In Child Support Cases.**—In cases where the court has ordered periodical payments for the support of a child or children, as provided in the statutes relating to divorce, and it is claimed that such order has been disobeyed, the person claiming that such disobedience has occurred may file with the clerk of the court a written statement describing such claimed disobedience, which statement need not be verified. Upon the filing of such statement, the court may issue a show cause order to the person alleged to have disobeyed such support order, commanding him to appear and show cause why he should not be held in contempt of court. Notice of such order shall be served on the respondent in such proceedings in the manner provided in Rule 21a, not less than ten days prior to the hearing on such order to show cause. The hearing on such order may be held either in term time or vacation. No further written pleadings shall be required. The court may call and question witnesses to ascertain whether such support order has been disobeyed. Upon a finding of such disobedience, the court may enforce its judgment by orders as in other cases of civil contempt.

New rule, effective March 1, 1950.

## SECTION 12. REVIEW BY DISTRICT COURTS OF COUNTY COURT RULINGS

### C. CERTIORARI TO COUNTY COURT

**Rule 351. Appeals and Writs of Error.**—Appeals and writs of error from the judgments of the district courts in cases of certiorari shall be allowed and governed by the rules as in other cases. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 940, unchanged.

Change by amendment effective March 1, 1950: The words "to the Supreme Court," which followed "appeals and writs of error," have been deleted.

## PART III. RULES OF PROCEDURE FOR THE COURTS OF CIVIL APPEALS

### SECTION 3. PROCEEDINGS IN THE COURTS OF CIVIL APPEALS

Rule

388-A. Deposit for Costs in Court of Civil Appeals.

### SECTION 3. PROCEEDINGS IN THE COURTS OF CIVIL APPEALS

**Rule 383. Original Proceedings.**—A petition seeking to institute an original proceeding in the Court of Civil Appeals shall be presented to the clerk, accompanied with a motion for leave to file, and such written argument in behalf of the motion as may be desired. The motion shall be filed and, together with the petition and argument, if any, sent at once to the consultation room for the action of the court. If the court should be clearly of the opinion that the facts stated in the petition entitle petitioner to the relief sought, the motion will be granted, the petition filed, and the cause placed upon the trial docket. Otherwise the motion will be denied. Amendment by order of Oct. 12, 1949, effective March 1, 1950.

Source: New rule.

Change by amendment effective March 1, 1950: Provision for bond or deposit to secure payment of costs, or affidavit in lieu thereof, has been eliminated. See Rule 388-a.

**Rule 385. Appeals From Interlocutory Orders.**—Appeals from interlocutory orders (when allowed by law) may be taken by

(a) Filing an appeal or supersedeas bond within twenty days after rendition of the order appealed from, in an amount and to be approved and conditioned as required by the rules governing appeals generally; and

(b) Filing the record in the appellate court within twenty days after rendition of the order appealed from. Provided, that upon the filing of a motion in the appellate court within such twenty-day period, or within five days thereafter, showing good cause therefor, such court may grant a reasonable extension of time in which to file such record or any part thereof.

(c) Where the appeal is from an order sustaining a plea of privilege, transfer of the venue and trial upon the merits shall be suspended pending the appeal.

(d) Where the appeal is from an order granting or refusing a temporary injunction, or granting or overruling a motion to dissolve such an injunction, the cause may be heard in the Court of Civil Appeals or the Supreme Court on the bill and answer and such affidavits and evidence as may have been admitted by the judge of the court below. Such appeal shall not have the effect to suspend the order appealed from, unless it shall be so ordered by the court or judge entering the order.

(e) In all appeals from interlocutory orders there shall be no motion for a new trial, and the trial judge need not file findings of fact or conclusions of law, provided, however, it shall be permissible for the trial judge to file findings of fact and conclusions of law, if they are filed so as not to delay the filing of the record in the appellate court. Amended by an order of Oct. 12, 1949, effective March 1, 1950.

Source: In part a new rule. Subsection (c) is based on Art. 2008, (d) on Art. 4662.

Change by amendment effective December 31, 1941: The last sentence has been added to subsection (b) and the last sentence has been added to subsection (d).

By amendment effective December 31, 1943, subsection (e), above, was added.

Change by amendment effective March 1, 1950: The words "in an amount and to be approved and" have been inserted in subsection (a).

**Rule 388-A. Deposit For Costs In Court Of Civil Appeals.**—When the record in an appeal or writ of error is filed with the clerk of the Court of Civil Appeals from within its Supreme Judicial District, the appellant shall deposit with the clerk the sum of \$25.00 as costs in the Court of Civil Appeals. In all proceedings for writs of mandamus, prohibition, injunction, and other like proceedings originating in the Court of Civil Appeals, the petitioner, upon the filing of the motion for leave to file, shall deposit with the clerk the sum of \$10.00 as costs, and if the leave to file is granted, he shall deposit the additional sum of \$15.00 to cover the costs in the Court of Civil Appeals. In a proceeding for an extension of time for filing a record on appeal or writ of error, or to direct the clerk to file a record on appeal or writ of error, the movant, upon the filing of the motion, shall deposit with the clerk the sum of \$5.00 as costs, and if the extension of time is granted, or the record is ordered filed, and the record is subsequently filed pursuant to such order, the appellant shall deposit with the clerk the additional sum of \$20.00 to cover the costs in the Court of Civil Appeals, and no further deposit for costs in the Court of Civil Appeals will be required. No deposit will be required on a second or subsequent motion to file or to extend the time for filing a record.

Upon motion for affirmance by certificate under Rule 387, the appellee shall deposit the sum of \$10.00 upon the filing of the certificate and motion to affirm thereon, and such deposit shall cover all costs in the Court of Civil Appeals by reason of such proceeding.

The court may dismiss a proceeding for failure to make proper deposit for costs; provided, however, that no such deposit shall be required of any party who, under these rules or the statutes, is not required to give security for costs. If any party is unable to pay the costs as above required, he may make affidavit of his inability to do so and deliver it to the clerk of the Court of Civil Appeals simultaneously with the tender of the record, petition, or motion. Contest of such affidavit in the Court of Civil Appeals shall be governed by the provisions of Rule 355. If the appellant has filed in the trial court on affidavit of inability to pay costs.

as required by Rule 355, then he shall be entitled to file the record in the Court of Civil Appeals without making an additional affidavit in that court.

New rule, effective March 1, 1950, pursuant to Acts 1949, 51st Leg., ch. 86, amending Art. 3924 so as to provide for fixed deposits to cover all costs in the Court of Civil Appeals.

**Rule 391. Repealed, effective March 1, 1950.**

## SECTION 5. OPINIONS

**Rule 456. Copy Of Opinion To Attorneys, Etc.**—It shall be the duty of the clerk of each of the Courts of Civil Appeals and the clerk of the Supreme Court, within three days after rendition of a decision by such court, to mail or deliver to the clerk of the trial court and to one of the attorneys for the plaintiffs and one of the attorneys for the defendants a copy of the opinion rendered by such appellate court. The copy received by the clerk of the trial court shall be by him filed among the papers of the cause in such court. Where there is more than one attorney on each side, the attorneys may designate in advance the one to whom the copy shall be mailed. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Acts 1929, 41st Leg., p. 233, ch. 98, sec. 2, appearing in Vernon's Statutes as Art. 1836b.

Change: Omission of reference to Court of Criminal Appeals.

Change by amendment effective December 31, 1941: Rule 457, which sourced in Acts 1930, 41st Leg., 4th C.S. p. 36, ch. 45, appearing in Vernon's Statutes as Art. 1836c, has been repealed, but in substance has been combined with this rule; and the caption has been amended to read "Copy of Opinion to Attorneys"; and the rule has been materially redrafted, it being provided that the copies of opinions of both appellate courts shall be sent to attorneys.

Change by amendment effective December 31, 1943: "Etc." added to caption, and wording interpolated in the body of the rule which makes delivery of copy of opinion permissible and which requires a copy to go to and be filed by the trial clerk.

Change by amendment effective March 1, 1950: Provision for charging a fee of \$1.00, to be taxed as costs, for each copy of the opinion furnished to the attorneys has been eliminated. See Rule 388-a.

## SECTION 8. APPLICATION FOR WRIT OF ERROR

**Rule 473. Petition With Record.**—The petition with the original record in the case, and the opinions of the Court of Civil Appeals, and the motion filed therein, and certified copies of the judgments and orders of the Court of Civil Appeals and copy of the appeal or supersedeas bond shall be filed with the Supreme Court. The party applying for the writ of error shall deposit with the clerk of the Court of Civil Appeals a sum sufficient to pay the expressage or carriage of the record to and from the clerk of the Supreme Court. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 1743, unchanged.

Change by amendment effective March 1, 1950: The provision that the postage or expressage shall be charged as costs of suit has been eliminated. See Rule 388-a.



## PART IV. RULES OF PRACTICE FOR THE SUPREME COURT

### SECTION 1. PROCEEDINGS IN THE SUPREME COURT

**Rule 475. Original Proceedings: Petition For Mandamus To Compel Certification.**—The Supreme Court will not grant a motion for leave to file a petition for mandamus against a Court of Civil Appeals to require that court to certify questions upon the ground either of conflict of decisions or of dissent where the case may reach the Supreme Court by writ of error. Upon consideration of a motion for leave to file a petition for a writ of mandamus against a Court of Civil Appeals to compel that court to certify a question on the ground of conflict, the Supreme Court may deny the motion if it is clearly of the opinion that no conflict exists or that, although a conflict exists, the opinion of the Court of Civil Appeals has correctly stated the law, in which latter event the Supreme Court shall state in its order that it approves the holding of the Court of Civil Appeals. Where such a motion is granted, the petition shall be docketed and set down for hearing both on the question of whether there is a conflict and on the merits of the question involved in the asserted conflict. Upon consideration of a motion for leave to file a petition for mandamus against a Court of Civil Appeals to require that court to certify a question on the ground of dissent, the Supreme Court may deny the motion where it is clearly of the opinion that the majority opinion correctly states the law, in which event it shall state in its order that it approves the majority holding. Where such a motion is granted, the petition shall be docketed and set down for hearing on the merits of the question involved in the dissent. If the petition is granted, the mandamus will then issue unless the Court of Civil Appeals conforms its ruling and decision to those of the Supreme Court; or the Supreme Court may, upon such hearing, if it be deemed proper, direct the Court of Civil Appeals to conform its ruling and decision to those of the Supreme Court, without the necessity of certifying the question to the Supreme Court. Amendment by order of Oct. 12, 1949, effective March 1, 1950.

Source: New rule.

Change by amendment effective December 31, 1943: The last clause of the final sentence, above, has been added.

Change by amendment effective March 1, 1950: The rule has been rewritten. New portions include the first sentence and the provisions permitting the Supreme Court to deny a motion for leave to file petition for mandamus where it is of the opinion that the holding of the Court of Civil Appeals is correct.

**Rule 485. Deposit For Costs.**—When an application for writ of error is filed with the clerk of the Court of Civil Appeals, the petitioner shall deliver to said clerk the sum of \$10.00 as costs in the Supreme Court, and the clerk shall forward said deposit to the Supreme Court with the record. If the writ is granted, the petitioner shall deposit with the clerk of the Supreme Court the additional sum of \$25.00 to cover the costs in the Supreme Court. In all proceedings for writs of mandamus, prohibition, injunction, and other like proceedings originating in the Supreme Court, the petitioner, upon the filing of the motion for leave to file, shall deposit with the clerk the sum of \$10.00 as costs, and if the leave to file is granted, he shall deposit the additional sum of \$15.00 to cover the costs in the Supreme Court. In cases involving petitions for writs of habeas corpus, the petitioner upon the filing of the petition shall deposit with the clerk

the sum of \$10.00 as costs, and if the case is set by the court for argument the petitioner shall deposit the additional sum of \$15.00 to cover the costs in the Supreme Court. In all other original proceedings in the Supreme Court and in all direct appeals from the district court as provided for in Rule 499-a, the petitioner shall deposit, upon the filing of the petition or record, the sum of \$25.00 to cover the costs in the Supreme Court. The court reserves the right to dismiss the proceedings for failure to make proper deposit for costs; provided, however, that no such deposit shall be required of any petitioner who, under these rules or statutes, is not required to give security for costs. If the petitioner is unable to pay the costs as above required, he may make affidavit of his inability to do so and deliver it to the clerk of the Court of Civil Appeals to be forwarded to the Supreme Court with the record. Contest of such affidavit in the Supreme Court shall be governed by the provisions of Rule 355. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 1747, with minor textual change.

Change by amendment effective December 31, 1947: The previous rule has been completely redrafted and a new procedure has been substituted.

Change by amendment effective March 1, 1950: The fourth sentence, prescribing the costs in proceedings for writs of habeas corpus, has been added. Minor textual changes have also been made.

### SECTION 3. REHEARING

**Rule 515. Motion For Rehearing.**—A motion for rehearing may be filed with the clerk of the court within fifteen days after the date of rendition of the judgment or decision of the court or the order refusing or dismissing an application for writ of error, whether such date be in the same or a succeeding term of such court. In exceptional cases, if the ends of justice require, the court may shorten the time within which the motion may be filed or even deny the right to file it altogether. The grounds relied upon for the rehearing shall be distinctly specified in the motion. The motion shall give the name and residence of the counsel of the opposing party if known, and if not known, the name and residence as shown in the record. The party filing such motion shall deliver or mail to each opposing party, or his attorney of record, a true copy of such motion, and shall note on the motion so filed with the clerk that such copies have been so furnished. Upon his failure to do so, he shall accompany his motion with or furnish to the clerk on his request a sufficient number of duplicates or copies thereof for the clerk to use in complying with the provisions of Rule 516. Failure to supply such copies on request of the clerk may result in dismissal of the motion. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 1762.

Change: Substitution of "date of rendition" for "date of entry." Addition of "whether such date be in the same or a succeeding term of such court." Addition of "or the order refusing or dismissing an application for writ of error."

Change by amendment effective December 31, 1941: The last three sentences of the rule have been added. See also Rule 458 and Note thereto.

Change by amendment effective March 1, 1950: The second sentence, permitting the court, in exceptional cases, to shorten the time within which the motion may be filed or to deny the right to file it altogether, has been substituted for the former provision which only authorized the court to deny the right to file the motion.

## PART VI. RULES RELATING TO ANCILLARY PROCEEDINGS

### SECTION 5. INJUNCTION

**Rule 684. Applicant's Bond.**—In the order granting any temporary restraining order or temporary injunction, the court shall fix the amount of security to be given by the applicant. Before the issuance of the temporary restraining order or temporary injunction the applicant shall execute and file with the clerk a bond to the adverse party, with two or more good and sufficient sureties, to be approved by the clerk, in the sum fixed by the judge, conditioned that the applicant will abide the decision which may be made in the cause, and that he will pay all sums of money and costs that may be adjudged against him if the restraining order or temporary injunction shall be dissolved in whole or in part. If the injunction be applied for to restrain the execution of a money judgment or the collection of a debt, the bond shall be fixed in the amount of such judgment or debt, plus a reasonable amount to cover interest and costs.

Where the temporary restraining order or temporary injunction is against the State, a municipality, a State agency, or a subdivision of the State in its governmental capacity, and is such that the State, municipality, State agency, or subdivision of the State in its governmental capacity, has no pecuniary interest in the suit and no monetary damages can be shown, the bond shall be allowed in the sum fixed by the judge, and the liability of the applicant shall be for its face amount if the restraining order or temporary injunction shall be dissolved in whole or in part. The discretion of the trial court in fixing the amount of the bond shall be subject to review. Provided that under equitable circumstances and for good cause shown by affidavit or otherwise the court rendering judgment on the bond may allow recovery for less than its full face amount, the action of the court to be subject to review. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 4649, harmonized with the Federal Rules adopted above by minor textual change.

By amendment effective December 31, 1943, the last sentence of the first paragraph has been added, from old Art. 4648.

Change by amendment effective March 1, 1950: The last paragraph has been added.

## PART VII. RULES RELATING TO SPECIAL PROCEEDINGS

### SECTION 3. PARTITION OF REAL ESTATE

**Rule 770. Property Incapable Of Division.**—Should the court be of the opinion that a fair and equitable division of the real estate, or any part thereof, cannot be made, it shall order a sale of so much as is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as under execution or by private or public sale through a receiver, if the court so order, and the proceeds thereof shall be returned into court and be partitioned among the

For Annotations and Historical Notes, see Vernon's Texas Rules of Civil Procedure

persons entitled thereto, according to their respective interests. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 6096, unchanged.

Change by amendment effective March 1, 1950: The words "or public" have been added in the phrase "by private or public sale."

## SECTION 8. SUITS AGAINST NON-RESIDENTS

**Rule 812. No Judgment By Default.**—No judgment by default shall be taken in such case when service has been had by publication, but in such case the facts entitling the plaintiff to judgment shall be exhibited to the court on the trial; and a statement of facts shall be filed as provided by law and these rules in suits against nonresidents of this State served by publication, where no appearance has been made by them. Amended by order of Oct. 12, 1949, effective March 1, 1950.

Source: Art. 1978, with minor textual change.

Change by amendment effective March 1, 1950: The following language has been inserted as indicated: "when service has been had by publication" before the first comma; "in such case" before the words "the facts entitling"; and "served by publication" before the last comma.

\*



# THE PENAL CODE

---

## TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY AND REVENUE

### CHAPTER FOUR—COLLECTION OF TAXES AND OTHER PUBLIC MONEY

Art. 131c—1. Cigarette tax; reports and information to Attorney General or Comptroller as confidential

Text of Section 26a until Aug. 31, 1957

#### Unlawful use of old stamps

Sec. 26a. Any person who shall have in his possession any cigarette tax stamps of the old denomination after the expiration of thirty (30) days from the effective date of this Act, except as herein otherwise provided, or who shall possess any cigarettes for the purpose of sale to which stamps of the old denomination are affixed, shall be guilty of a felony and shall be punished by confinement in the State Penitentiary for not more than two (2) years or by confinement in the county jail for not less than one (1) month nor more than six (6) months, or by a fine of not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or by both such fine and imprisonment. Added Acts 1950, 51st Leg., 1st C.S., p. 1, ch. 1, § 3.

Emergency. Effective Feb. 28, 1950.

**TITLE 5—OFFENSES AFFECTING THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENT OF THE GOVERNMENT**

**CHAPTER ONE.—BRIBERY**

**Art.**

160—a. Bribery of Basic Science Board  
[New].

**Art.**

160—b. Acceptance of Bribe by Basic Science Board [New].

**Art. 160—a. Bribery of Basic Science Board**

Any person who shall bribe or offer to bribe any member of the Basic Science Board authorized to issue a certificate of proficiency in the basic sciences, for the purpose of obtaining a certificate of proficiency in the basic sciences shall be confined in the penitentiary not less than two (2) nor more than five (5) years. Added Acts 1949, 51st Leg., p. 170, ch. 95, § 22.

Emergency. Effective April 28, 1949. Sections 1 to 16—a, 24, 25 are published as Vernon's Ann.Civ.St. art. 4590c, sections 17-19 are arts. 742—a to 742—c, sections 20 and 21 are arts. 744—a and 744b, section 23 is art. 160—b.

**Art. 160—b. Acceptance of Bribe by Basic Science Board**

Any member of the Basic Science Board who shall accept a bribe or consent to accept a bribe under an agreement or with an understanding that he will aid any person in obtaining a certificate of proficiency in the basic sciences in return for the bribe given or promised, shall be confined in the penitentiary not less than two (2) nor more than five (5) years. Added Acts 1949, 51st Leg., p. 170, ch. 95, § 23.

## TITLE 7—RELIGION AND EDUCATION

### CHAPTER THREE—TEACHERS AND SCHOOLS

#### Art. 301d. Fraternities, sororities and secret societies in public schools

##### **Prohibition; schools to which applicable**

Section 1. In all counties of this State Public School Fraternities, Sororities, and Secret Societies are hereby prohibited in all the Public Schools of this State supported in whole or in part from public funds, which schools are below the rank or grade of Colleges, and including within said provisions all High Schools and Junior High Schools and all Public Schools of lower grades. The provisions of this Act shall not apply to any University, College or State Teachers College.

##### **Definition**

Sec. 2. A Public School Fraternity, Sorority, or Secret Society as used in this Act is hereby defined to be any organization composed wholly or in part of public school pupils of public schools below the rank of College or Junior College as herein provided, which seeks to perpetuate itself by taking in additional members from the pupils enrolled in such school on the basis of the decision of its membership rather than upon the free choice of any pupil in the school who is qualified by the rules of the school to fill the special aims of the organization.

##### **Organizations declared inimical to public good**

Sec. 3. Any Public School Fraternity, Sorority, or Secret Society as defined in the preceding Section of this Act is hereby declared to be an organization inimical to the public good.

##### **Suspension or expulsion of students; exceptions**

Sec. 4. It should be the duty of School Directors, Boards of Education, School Instructors and other corporate authority managing and controlling any of the Public Schools of this State within the provisions of this Act, to suspend or expel from the school under their control any pupil of such school who shall be or remain a member of, or who shall join or promise to join, or who shall become pledged to become a member of, or who shall solicit any other person to join, promise to join, or be pledged to become a member of any such Public School Fraternity, or Sorority, or Secret Society. Providing that the above restrictions shall not be construed to apply to agencies for Public Welfare, viz: Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, and Scholarship Societies, and other kindred educational organizations sponsored by the State or National education authorities.

##### **Soliciting by person not enrolled in public school**

Sec. 5. It shall be unlawful from and after the passage of this Act for any person not enrolled in any such Public School to solicit any pupil enrolled in any such Public School to join or to pledge himself or herself to become a member of any such Public School Fraternity or Sorority, or Secret Society, or to solicit any such pupil to attend a meeting thereof, or any meeting where the joining of any such School Fraternity, Sorority, or Secret Society shall be encouraged.



**Violations of act**

Sec. 6. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and shall be fined not less than Twenty-five Dollars (\$25), nor more than Two Hundred Dollars (\$200) for each offense.

**Schools to which applicable**

Sec. 7. The provisions of this Act shall not apply to schools organized for higher education beyond the High School and Junior High School level, but the same shall apply to High Schools, Junior High Schools, and all schools to<sup>1</sup> lower grades. As amended Acts 1949, 51st Leg., p. 803, ch. 429.

Effective 90 days after July 6, 1949, date of adjournment.

Section 2 of the amendatory act of 1949, provided that, all laws and parts of laws in conflict with any provisions of this Act are hereby repealed; and should any Section or provision hereof be by the courts of competent jurisdiction declared unconsti-

tutional or invalid, such invalidity shall not impair or invalidate any remaining Sections or provisions of this Act, and it is declared to be the Legislative intent that this Act would have been passed as to the remaining portions thereof regardless of the invalidity of any part thereof.

## TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE

### CHAPTER FOUR.—ARREST AND CUSTODY OF PRISONERS

Art.

353b. Escape from penitentiary or other prison [New].

#### Art. 353b. Escape from penitentiary or other prison

Section 1. (a) The term "prison," as used in this Act, means any place designed by law for the keeping of persons held in custody under process of law or under lawful arrest, including county jails, city jails, and the State penitentiary.

(b) The term "prisoner," as used in this Act, means any person who has been convicted of a felony and sentenced to serve a term in the penitentiary.

(c) The term "officer," as used in this Act, includes all peace officers, jailers, turnkeys, and matrons of any jail; Texas Rangers, Members of Texas Highway Patrol; the officers, guards, and employees of the Texas Prison System; and any other person authorized by law to have in his custody a prisoner.

Sec. 2. If a prisoner confined in the penitentiary or while he is permitted to be at large as a trusty, or a prisoner confined in any other prison, or while in the lawful custody of any officer shall voluntarily, with or without force, escape, he shall upon conviction for such escape be confined in the penitentiary for not less than two (2) nor more than five (5) years. Provided, if such prisoner shall have used a firearm or other deadly weapon in effecting his escape, he shall be punished by confinement in the penitentiary for not less than five (5) nor more than fifteen (15) years. If a prisoner did not use a firearm or other deadly weapon in effecting his escape, and voluntarily returned to the custody of the officer or prison from whom or which he escaped within twenty-four (24) hours after his escape, his punishment for such escape shall upon conviction be by confinement in the penitentiary for not less than one (1) nor more than three (3) years. If a prisoner used a firearm or other deadly weapon in effecting his escape and voluntarily returned to the custody of the officer or prison from whom or which he escaped within twenty-four (24) hours after his escape, his punishment for such escape upon conviction shall be by confinement in the penitentiary for not less than two (2) nor more than five (5) years. Acts 1949, 51st Leg., p. 144, ch. 88.

Emergency. Effective April 26, 1949.

**Title of Act:**

An Act making it unlawful for any prisoner convicted of a felony and sentenced to serve a term in the penitentiary to escape from prison, or the lawful custody

of an officer, or any other person authorized by law to have such prisoner in his custody; prescribing a penalty for violation thereof; and declaring an emergency. Acts 1949, 51st Leg., p. 144, ch. 88.

### CHAPTER EIGHT—MISCELLANEOUS OFFENSES

Art. 430a. Repealed. Acts 1949, 51st Leg., p. 548, ch. 301, § 1. Eff. 90 days after July 6, 1949, date of adjournment

Persons not members of State Bar prohibited from practicing law, see Vernon's Ann.Civ.St. art. 320a—1.

**Art. 432. 381 Nepotism**

No officer of this State or any officer of any district, county, city, precinct, school district, or other municipal subdivision of this State, or any officer or member of any State, district, county, city, school district or other municipal board, or judge of any court, created by or under authority of any General or Special Law of this State, or any Member of the Legislature, shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of any such board, the Legislature, or court of which such person so appointing or voting may be a member, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever; provided, that nothing herein contained shall prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty for a period of two (2) years prior to the election or appointment of the officer or member appointing, voting for, or confirming the appointment of such person to such office, position, clerkship, employment or duty. As amended Acts 1949, 51st Leg., p. 227, ch. 126, § 1.

Emergency. Effective May 4, 1949.

Section 2 of the amendatory Act of 1949 repealed all conflicting laws and parts of laws.

## TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE

### CHAPTER THREE—AFFRAYS AND DISTURBANCES OF THE PEACE

#### Art. 474. 470, 334    Disturbing the peace

Whoever shall go into or near any public place, or into or near any private house, and shall use loud and vociferous, or obscene, vulgar or indecent language or swear or curse; or yell or shriek or expose his or her person to another person of the age of sixteen (16) years or over, or rudely display any pistol or deadly weapon, in a manner calculated to disturb the person or persons present at such place or house, shall be punished by a fine not exceeding Two Hundred Dollars (\$200). As amended Acts 1950, 51st Leg., 1st C.S., p. 50, ch. 10, § 1.

Emergency. Effective March 10, 1950.  
 Section 2 of the act of 1950 read as follows: "If any section, subsection, paragraph or phrase of the Act be held invalid, the remaining portion shall not thereby be rendered invalid and it is declared by the

Legislature that it would have enacted the remaining portions of said Act without the inclusion of that part which is held invalid."

### CHAPTER FOUR—UNLAWFULLY CARRYING ARMS

Art.

489c. Possession of firearms by persons convicted of felony involving use of firearm [New].

#### Art. 489c. Possession of firearms by persons convicted of felony involving use of firearm

Section 1. It shall be unlawful for any person who has been convicted of a felony involving an act of violence with a firearm under the Laws of the United States or of the State of Texas, or of any other State, to have in his possession away from the premises upon which he lives, any pistol, revolver or any other firearm capable of being concealed upon the person.

Sec. 2. Anyone violating any of the provisions of this Act shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary for not less than one (1) nor more than five (5) years.

Sec. 3. Definitions. The following words and phrases when used in this Act are defined as follows, to wit:

(a) "Pistol," "revolver" and "firearm" means a weapon capable of being concealed upon the person and shall include all firearms having a barrel of less than twelve (12) inches in length.

(b) The use of the masculine gender includes the feminine gender.

Sec. 4. The penal provisions of this Act shall not apply to any person commissioned as a peace officer, employed as a guard or watchman nor to any person who has not been convicted of a penal offense during the five-year period next immediately following his discharge or release from the penitentiary. Acts 1949, 51st Leg., p. 1186, ch. 599, § 1.

Emergency. Effective July 25, 1949.  
 Section 5 of the act of 1949, provided that all laws and parts of laws in conflict herewith are hereby expressly repealed to the extent of such conflict.

Title of Act:

An Act making it unlawful for any person who has been convicted of a felony

involving an act of violence with a firearm to have in his possession firearms of certain types away from the premises upon which he lives; providing certain exceptions; providing a penalty; defining terms; repealing all laws in conflict herewith; and declaring an emergency. Acts 1949, 51st Leg., p. 1186, ch. 599.

## TITLE 10—OFFENSES AGAINST MORALS, DECENCY AND CHASTITY

### CHAPTER SEVEN—MISCELLANEOUS OFFENSES

- |   |   |
|---|---|
| <p>Art.<br/>534a. Contributing to delinquency of child or acting in conjunction with child [New].</p> | <p>535b. Enticing child for immoral purposes or for purpose of committing assault [New].</p> <p>535c. Indecent exposure to child [New].</p> <p>535d. Handling or fondling child's sexual parts [New].</p> |
|---|---|

#### Art. 534. Contributing to delinquency of child

When any person is an habitual drunkard or an addict to cocaine, morphine or other narcotics, and in all cases where a child is caused to become a delinquent child or a dependent and neglected child under the age of seventeen years, whether previously convicted or not, the parent, guardian or person having the custody of, or the person responsible for such child, habitual drunkard or narcotic addict, or any person who by any act encourages, causes, acts in conjunction with, or contributes to the delinquency, dependency or the neglect of such child, habitual drunkard or narcotic addict, or who shall in any manner cause, encourage, act in conjunction with or contribute to the delinquency, dependency or the neglect of any such child under the age of seventeen years, or habitual drunkard or narcotic addict, shall be fined not exceeding Five Hundred (\$500.00) Dollars or be imprisoned in jail not to exceed one year, or both. By the term "delinquency" as used herein is also meant any act which tends to debase or injure the morals, health or welfare of such child, habitual drunkard or narcotic addict, and includes drinking intoxicating liquor, the use of narcotics, going into or remaining in any bawdy house, assignation house, disorderly house, or road house, hotel, public dance hall where prostitutes, gamblers or thieves are permitted to enter and ply their trade, going into a place where intoxicating liquors or narcotics are kept, drunk, used or sold, or associating with thieves and immoral persons, or cause them to leave home or to leave the custody of their parents or guardian or persons standing in lieu thereof without first receiving their consent or against their will, or who by undue influence, cause such habitual drunkard or narcotic addict to unlawfully cohabit with any person known to them to be an habitual drunkard or narcotic addict, and any other act which would constitute such a child a delinquent or cause it to become a delinquent by committing such act. The fact that a child has not been declared a delinquent child or a neglected or dependent child, as defined by the Statutes of this State, shall not be a defense under this Act. As amended Acts 1949, 51st Leg., p. 910, ch. 488, § 1.

Effective 90 days after July 6, 1949, date of adjournment. of child and prescribed the punishment therefor. Section 3 of such Act expressly repealed article 534 of the Penal Code.

Repeal. Acts 1949, 51st Leg., p. 924, ch. 500, effective June 29, 1949, also defined the offense of contributing to delinquency See article 534a, post.

#### Art. 534a. Contributing to delinquency of child or acting in conjunction with child

Section 1. In all cases where any child shall be a delinquent, dependent or neglected child, as defined in the Statutes of this State, irrespective of whether any formal proceedings have been had to determine the status of such child, the parent or parents, legal guardian, or any per-

son having such custody of such child, or any other person or persons who shall by any act encourage, cause or contribute to the dependency or delinquency of such child, or who acts in conjunction with such child in the acts which cause such child to be dependent or delinquent, shall be guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding Five Hundred Dollars (\$500), or by imprisonment in the county jail for not more than six (6) months, or by both fine and imprisonment; provided, however, that the court in which the case is heard may suspend the sentence for violation of the provisions of this Act, and impose conditions upon the defendant as to his future conduct, and may make such suspension dependent upon the fulfillment by the defendant of such conditions, and in case of the breach of such conditions or any part of them, the court may impose sentence as though there had been no such suspension. The court may also as a condition of such suspension, require a bond in such sum as the court may designate, to be approved by the Judge requiring it, to secure the performance by such person of the conditions placed by the court on such suspension; the bond by its terms shall be made payable to the County Judge of the county in which the prosecution is pending, and any money received from a breach of any of the provisions of the bond shall be paid into the county treasury. The provisions of law regulating forfeiture of appearance bonds shall govern so far as they are applicable. Exclusive jurisdiction of the offense defined in this Act is hereby conferred on Juvenile Courts, in accordance with the provisions of law establishing such courts.

Sec. 2. By the term "delinquency," as used in this Act, is meant any act which tends to debase or injure morals, health or welfare of a child, drinking of intoxicating liquor, the use of narcotics, going into or remaining in any bawdy house, assignation house, disorderly house or roadhouse, hotel, public dance hall, or other gathering place where prostitutes, gamblers or thieves are permitted to enter and ply their trade, going into a place where intoxicating liquors or narcotics are kept, drunk, used, sold or given away, or associating with thieves and immoral persons, or enticing a minor to leave home or to leave the custody of its parents, guardians or persons standing in lieu thereof, without first receiving the consent of the parent, guardian or other person, in addition to all of the other acts which any other laws now in effect define to be delinquency or which create any child a delinquent.

Sec. 3. Nothing contained in this Act shall be construed to repeal or affect any other Statutes regulating the powers and duties of Juvenile Courts; but Article 534 of the Penal Code is expressly repealed.<sup>1</sup> Acts 1949, 51st Leg., p. 924, ch. 500.

<sup>1</sup> Article 534 of the Penal Code was also amended by Acts 1949, 51st Leg., p. 910, ch. 488, § 1 to read as set out ante.

Emergency. Effective June 29, 1949.

#### Art. 535b. Enticing child for immoral purposes or for purpose of committing assault

##### Offense defined

Section 1. It shall be unlawful for any person with lascivious intent to entice, allure, persuade, or invite, or attempt to entice, allure, persuade or invite, any child under fourteen (14) years of age to enter any vehicle, room, house, office or other place for the purpose of proposing to such child the performance of an act of sexual intercourse or an act which constitutes the offense of sodomy or for the purpose of proposing the fondling or feeling of the sexual or genital parts of such child or the breast of such child, if the child be a female, or for the purpose of com-

mitting an aggravated assault on such child, or for the purpose of proposing that such child fondle or feel the sexual or genital parts of such person.

**Punishment**

Sec. 2. Any person violating the provisions of this Act shall be guilty of a felony, and upon conviction shall be punished by a fine not to exceed One Thousand Dollars (\$1,000), or by confinement in the county jail for a term not to exceed two (2) years, or by both such fine and imprisonment, or by confinement in the penitentiary for any term not to exceed ten (10) years.

**Partial invalidity**

Sec. 3. If any section, subsection, paragraph or phrase of the Act be held invalid, the remaining portion shall not thereby be rendered invalid; and it is declared by the Legislature that it would have enacted the remaining portions of said Act without the inclusion of that part which is held invalid. Acts 1950, 51st Leg., 1st C.S., p. 49, ch. 8.

Emergency. Effective March 10, 1950.

**Art. 535c. Indecent exposure to child**

**Unlawful exposure**

Section 1. It shall be unlawful for any person with lascivious intent to knowingly and intentionally expose his or her private parts or genital organs to any other person, male or female, under the age of sixteen (16) years.

**Grade of offense and punishment**

Sec. 2. Any person violating this Act shall be guilty of a felony, and shall upon conviction be punished by confinement in the county jail for a period not to exceed two (2) years, or by a fine not to exceed Two Thousand Dollars (\$2,000) or by both such fine and imprisonment, or by confinement in the penitentiary for any term of years not to exceed fifteen (15) years.

**Partial invalidity**

Sec. 4. If any section, subsection, paragraph or phrase of this Act be held invalid, the remaining portion shall not thereby be rendered invalid, and it is declared by the Legislature that it would have enacted the remaining portions of said Act without the inclusion of that part which is held invalid.

Emergency. Effective March 10, 1950.

Section 3 of the act of 1950 repealed conflicting laws and parts of laws.

**Title of Act:**

An Act making it unlawful for any person to expose his or her private parts or genital organs to a male or female under

the age of sixteen (16) years; fixing a penalty; repealing all conflicting laws; providing for severance of any portion of this Act which is held invalid; and declaring an emergency. Acts 1950, 51st Leg., 1st C.S., p. 50, ch. 9.

**Art. 535d. Handling or fondling child's sexual parts**

**Unlawful acts**

Section 1. It shall be unlawful for any person with lascivious intent to intentionally place or attempt to place his or her hand or hands, or any portion of his or her hand or hands upon or against a sexual part of a male or female under the age of fourteen (14) years, or to in any way or manner fondle or attempt to fondle a sexual part of a male or female under the age of fourteen (14) years, or to intentionally place or attempt to place his or her hands or any part of his hand or hands upon the breast of a female under the age of fourteen (14) years, or to in any way or manner fondle or attempt to fondle the breast of a female under the age of fourteen (14) years.

**Exceptions**

Sec. 2. The provisions of Section 1 of this Act shall not apply to the enumerated acts where the purpose of the person committing such act or acts is to render medical or surgical treatment, or to determine the need for medical or surgical treatment, or to cleanse such sexual part, or when the persons are married legally one to another.

**Punishment**

Sec. 3. Any person violating the provisions of this Act shall be guilty of a felony, and shall upon conviction, be punished by confinement in the county jail for not less than thirty (30) days or more than two (2) years, or by a fine not to exceed Two Thousand Dollars (\$2,000), or by both such fine and imprisonment, or by confinement in the penitentiary for any term of years not to exceed twenty-five (25).

**Partial invalidity**

Sec. 4. If any section, subsection, paragraph or phrase of this Act be held invalid, the remaining portion shall not thereby be rendered invalid; and it is declared by the Legislature that it would have enacted the remaining portions of said Act without the inclusion of that part which is held invalid. Acts 1950, 51st Leg., 1st C.S., p. 52, ch. 12.

Emergency. Effective March 10, 1950.



## TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY

### CHAPTER EIGHT.—TEXAS LIQUOR CONTROL ACT

#### 1. INTOXICATING LIQUORS

- Art.  
666—5a. Assistant administrator [New].  
666—21½. Additional taxes [New].  
666—36½. Election supervisors [New].  
666—49a Suspension or cancellation of permits for breach of peace [New].  
666—50. Prohibited forms of advertising [New].  
666—51a. Offensive music, noise and other sounds [New].  
666—52. Package store permit holders; local cartage permit; transportation of ale [New].  
666—53. Interest in consignment sales [New].  
666—54. Certification of facts by county clerk and city secretary or clerk [New].

Art.

- 666—55. Election days; definitions [New].  
666—56. Non-resident sellers; samples and labels [New].

#### 2. MALT LIQUORS

- 667—5A. Repealed.  
667—23¼. Tax levied only on first sale; duty of paying; exemptions; importation of beer; bonds; statements and remittances; prima facie evidence [New].  
667—23a. Additional tax [New].  
667—28. Samples and labels [New].  
667—29. Transportation, consignment to licensees only [New].  
667—30. Security for costs [New].  
667—31. Conduct of business limited to licensed premises [New].

### I. INTOXICATING LIQUORS

#### Art. 666—3a. Definitions

The following definitions of words and terms shall apply as used in this Act<sup>1</sup>:

(1) "Alcoholic Beverage" shall mean alcohol and any beverage containing more than one-half of one per cent (1/2 of 1%) of alcohol by volume which is capable of use for beverage purposes, either alone or when diluted.

(2) "Consignment Sale" shall mean the delivery of alcoholic beverages under any agreement, arrangement, condition, or system whereby the person receiving the same has the right at any time to relinquish possession to or return them to the shipper and whereby title to such remains in the shipper. It shall also mean the delivery of alcoholic beverages under any agreement, arrangement, condition, or system whereby the person designated as the receiver merely acts as an intermediary for the shipper or seller and the actual receiver as well as the delivery of alcoholic beverages to a factor or broker or any other method employed by a shipper or seller whereby any person is placed in actual or constructive possession of alcoholic beverages without acquiring title thereto, or any method employed by a shipper or seller whereby any person designated as the purchaser does not in fact purchase the same. It is not intended that this definition shall exclude any other kind of transaction which in law may be construed as a consignment sale.

(3) "Distilled Spirits" shall mean alcohol, spirits of wine, whiskey, rum, brandy, gin, and any liquor produced in whole or in part by the process of distillation, including all dilutions and mixtures thereof.

(4) "Illicit Beverage" shall mean and refer to any alcoholic beverage manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, stored, possessed, imported, or transported in violation of this Act, or on which any tax imposed by the laws of this State has not been paid and the tax stamp affixed thereto; and any alcoholic beverage possessed, kept, stored, owned, or imported

with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse, store, or transport in violation of the provisions of this Act.

(5) "Liquor" shall mean any alcoholic beverage containing alcohol in excess of four (4) per centum by weight, unless otherwise indicated. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, rum, ale, malt liquor, tequila, mescal, habanero, or barreteago, shall be prima-facie evidence that the same is liquor as herein defined.

(6) "Person" shall mean and refer to any natural person or association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them.

(7) "Premise" shall mean the grounds as well as all buildings, vehicles, and appurtenances pertaining thereto, and shall also include any adjacent premises, if directly or indirectly under the control of the same person.

(8) "Wine and vinous liquor" shall mean the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, or berries.

(9) "Hotel" shall mean the premises of an establishment where, in consideration of payment therefor, food and lodging are furnished to travelers, and wherein are located, adequately furnished, at least ten (10) completely separate rooms with adequate facilities therein so comfortably disposed that persons usually apply for and receive overnight accommodations therein, in the course of usual and regular travel or as a residence, and which establishment operates a regular dining room constantly frequented by customers each day.

(10) "Applicant" shall mean any person who submits or files an original or renewal application with the County Judge or Board or Administrator for a license or permit.

(11) "Board" shall mean the Texas Liquor Control Board.

(12) "Permittee" shall mean any person who is the holder of a permit provided for in this Article, or any agent, servant, or employee of such person.

(13) "Ale" and "malt liquor" shall mean a malt beverage containing more than four per centum (4%) of alcohol by weight.

(14) "Container" shall mean any container holding liquor.

Any definition contained herein shall apply to the same word in any form. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 1.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after July 6, 1949, date of adjournment.

Sections 23-25 of the amendatory act of 1949, read as follows:

"Sec. 23. The amendment of any Section or any portion of a Section of the Texas Liquor Control Act [Articles 666—1 et seq., 667—1 et seq.] by the enactment of this Act shall not affect nor impair any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any cause before such amendment shall take effect; but every such act done or right vested or accrued, or proceeding, suit, or prosecution had or commenced, shall remain in full force and effect to all intents as if such Sections or part thereof amended had remained in force. No offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time when

any Section or part thereof shall be repealed or amended by this Act, shall be discharged or affected by such repeal or amendment; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if the prior Statute or part thereof had not been repealed or amended.

"Sec. 24. If any part, Section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of the Act; and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity.

"Sec. 25. All laws and parts of laws in conflict herewith are hereby expressly repealed, to the extent of such conflict only."

**Art. 666—5a. Assistant administrator**

The Administrator shall choose and designate an Assistant Administrator who shall have the same qualifications as the Administrator. In the absence of the Administrator, or in case of his inability to act, the Assistant Administrator shall perform the duties devolving upon the Administrator by law or by delegation from the Board. At other times he shall perform such duties and have such functions, powers and authority as may be delegated to him by the Administrator. He shall take the Constitutional Oath, and make a bond in the same amount and conditioned as is the Administrator's bond.

In the event of a vacancy in the office of Administrator, the Assistant Administrator shall perform the duties of Administrator until an Administrator has been appointed by the Board. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 5(a), added Acts 1949, 51st Leg., p. 1011, ch. 543, § 12.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 666—11. Refusal of permit**

The Board or Administrator may refuse to issue a permit either on an original application or a renewal application, to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:

(1) That the applicant has been convicted in a court of competent jurisdiction for the violation of any provision of this Act<sup>1</sup> during the two (2) years next preceding the filing of his application, or that two (2) years has not elapsed since the termination of any sentence, by pardon or otherwise, imposed upon the applicant upon conviction for a felony.

(2) The applicant has violated or caused to be violated any provision of this Act or any rule or regulation of the Board during the twelve-month period preceding the date of his application.

(3) The applicant has failed to answer or has falsely answered or has incorrectly answered any of the questions in his original application or any renewal application.

(4) The applicant is indebted to the State for any taxes, fees, or payment of penalties imposed by this Act or by any rule or regulation of the Board.

(5) The applicant is not of good moral character, that his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad, or that he is under twenty-one (21) years of age.

(6) The place or manner in which the applicant may conduct his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants a refusal of a permit.

(7) The applicant is in the habit of using alcoholic beverages to excess, or is physically or mentally incapacitated.

(8) The Board or Administrator believes or has reason to believe that the applicant will sell or knowingly permit any agent, servant, or employee to unlawfully sell liquor in a dry area or in any other manner contrary to law.

(9) The applicant has any financial interest in any establishment authorized to sell beer at retail other than as permitted in Section 23(a) (5) and Section 17(1) of Article I of the Texas Liquor Control Act.<sup>2</sup>

(10) The applicant is residentially domiciled with any person who has any financial interest in any establishment engaged in the business of selling beer at retail other than as permitted in Section 23(a) (5) and Section 17(1) of Article I of the Texas Liquor Control Act.

(11) The applicant is not a citizen of the United States or has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application, provided, however, that this Section 11 (11) shall not apply to any person who has been issued a permit or renewal thereof on or before September 1, 1948, and has at some time been a citizen of the United States; or

(12) The applicant does not have available an adequate building at the address for which the permit is sought.

(13) The applicant is residentially domiciled with any person whose permit or license has been cancelled for cause within the twelve (12) months next preceding the date of the present application for a permit.

(14) The applicant has failed or refused to furnish a true copy of his application to the Texas Liquor Control Board District Office in the district in which the premises sought to be covered by a permit are located.

(15) The Board or Administrator shall be vested with discretionary authority to refuse or grant such permits under the restrictions of this Section, as well as under any other pertinent provision of this Act.

(16) When the word "applicant" is used in (1) to (14) in this Section, it shall also mean and include each member of a partnership or association and all officers and the owner or owners of the majority of the corporate stock of a corporation, as of the date of the application, except as permitted in Section 23 (a) (5) and Section 17 (1) of Article I of the Texas Liquor Control Act.<sup>2</sup>

There may be sufficient legal reason to deny a permit if it is found that the premise for which the permit is sought has theretofore been used for selling alcoholic beverages in violation of the law at any time during the six (6) months immediately preceding the date of application, or has during that time been a premise operated, used, or frequented in any manner or for any purpose contrary to the provisions of this Act, or, so operated, used or frequented for any purpose or in any manner that is lewd, immoral or offensive to public decency. In the granting or withholding of any permit to sell alcoholic beverages at retail, as provided in Article I, of the Texas Liquor Control Act<sup>3</sup>, the Board or Administrator in forming his conclusions may give consideration to any recommendations made in writing by the District or County Attorney or County Judge or Commissioners Court of the county or the Sheriff of the county, or the Mayor or Chief of Police of any incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the Board. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 2.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

<sup>2</sup> Articles 666—23 and 666—17.

<sup>3</sup> Article 666—1 et seq.

Effective 90 days after July 6, 1949, date of adjournment.

#### **Art. 666—12. Cancellation or suspension of permit; grounds**

The Board or Administrator may cancel or may suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any permit or any renewal of such permit if it is found that any of the following is true:

(1) That the permittee has at any time been convicted for the violation of any provision of this Act.<sup>1</sup>

(2) That the permittee has violated any provision of this Act or any rule or regulation of the Board at any time.

(3) That the permittee has made any false or misleading representation or statement in his application or renewal application.

(4) That the permittee is indebted to the State for any taxes, fees, or payment of penalties imposed by this Act or by any rule or regulation of the Board.

(5) That the permittee is not of good moral character, or that his reputation for being a peaceable and law-abiding citizen in the community where he resides is bad.

(6) That the place or manner in which the permittee conducts his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants the cancellation or suspension of the permit.

(7) That the permittee is not maintaining an acceptable bond.

(8) That the permittee, his agent, servant or employee, maintains a noisy, lewd, disorderly or insanitary establishment or has been supplying impure or otherwise deleterious beverages.

(9) That the permittee is insolvent or mentally or physically unable to carry on the management of his establishment.

(10) That the permittee is in the habit of using alcoholic beverages to excess.

(11) That either the permittee, his agent, servant, or employee knowingly misrepresented to a customer or the public any liquor sold by him.

(12) That the permittee, his agent, servant, or employee was intoxicated on the licensed premises.

(13) That the permittee, his agent, servant, or employee sold or delivered alcoholic beverages to any intoxicated person.

(14) That the permittee, his agent, servant, or employee possessed on the premises covered by his permit any alcoholic beverage that he was not authorized by his permit to purchase and sell.

(15) That any Package Store or Wine Only Package Store permittee, his agent, servant, or employee transported, caused to be transported, shipped or caused to be shipped liquor into a dry State, or into any dry area within this State.

(16) That the permittee, his agent, servant, or employee sold or delivered any liquor on Sunday.

(17) That the permittee, his agent, servant, or employee knowingly sold or delivered liquor to any person under the age of twenty-one (21) years.

(18) That the permittee, his agent, servant, or employee sold or delivered any liquor on any general primary election day or general election day between the hours of 9:00 o'clock A. M. and 8:00 o'clock P. M.

(19) That the permittee, his agent, servant, or employee employed any person under the age of twenty-one (21) years of age to sell, handle, transport, or dispense, or to assist in selling, handling, transporting or dispensing any liquor.

(20) That the permittee is residentially domiciled with any person who has financial interest in any establishment engaged in the business of selling beer at retail, except as provided in Section 23 (a) (5) and Section 17(1) of Article I of the Texas Liquor Control Act.<sup>2</sup>

(21) That the permittee is residentially domiciled with any person whose permit or license has been cancelled for cause within twelve (12) months next preceding the date of application.

(22) That the permittee, his agent, servant, or employee sold, offered for sale, distributed, or delivered any alcoholic beverage during any period of suspension of his permit by the Board or Administrator.

(23) That the permittee is not a citizen of the United States or has

not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application; provided, however, this paragraph (23) shall not apply to any person who has been issued a permit or a renewal thereof on or before September 1, 1948, and has at some time been a citizen of the United States.

(24) That the permittee has been finally convicted of a felony during the period he is the holder of any permit or renewal thereof.

(25) That the permittee, his agent, servant, or employee permitted any intoxicated person to remain on the premises.

(26) That the permittee, his agent, servant, or employee sold or delivered any alcoholic beverage between 10:00 P. M. of any day and 9:00 A. M. of the following day.

(27) The permittee, his agent, servant, or employee permitted any person to open any container or to possess any open container of alcoholic beverage on the licensed premises.

(28) Where the word "permittee" is used in this Section it shall also mean and include each member of a partnership or association and each officer and the owner or owners of the majority of the corporate stock of a corporation, except as provided in Section 23 (a) (5) and Section 17(1) of Article I of the Texas Liquor Control Act.<sup>2</sup>

(29) In addition to the causes for cancellation or suspension hereinbefore set out, the Board or Administrator may cancel or suspend the permit of any person upon satisfactory proof that the permittee has been finally convicted of any penal provisions of this Act. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 3.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

<sup>2</sup> Articles 666—23 and 666—17.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 666—13. Period of permit; permit as personal privilege; inspection of premises; sale by financial institution holding warehouse receipts**

(a) Any permit issued under this Act, except Wine and Beer Retailer's Permits issued to other than a railway dining, buffet, or club car, shall expire at twelve (12) o'clock midnight of the August 31 next following date of issuance.

(b) Any permit or license issued under the terms of either Article I<sup>1</sup> or Article II<sup>2</sup> of this Act shall be purely a personal privilege, revocable in the manner and for the causes herein stated, subject to appeal as hereinafter provided, and shall not constitute property, nor shall it be subject to execution, nor shall it descend by the laws of testate or intestate devolution, but shall cease upon the death of the permittee or licensee; provided, however, that upon the death of the holder of any such permit or license or of any person having an interest therein, or upon the dissolution of any partnership, or conditions involving receivership or bankruptcy, the receiver or successor of any such business involved may make application to the County Judge of the county wherein such permit or license is located, and upon certification by the County Judge that such person is the receiver or successor in interest of any such business involved, the Board or the Administrator shall, unless good cause for refusal be shown, by letter or by any other form that may be accepted for use by the Board, give permission to such receiver or successor in interest to operate said business under the said permit or license; such permission for the use of said permit or license shall thereafter be subject to cancellation for any of the reasons for

which a permit or license may be cancelled; and further provided that the Board or the Administrator may cancel or suspend permission to operate under the said permit or license for any of the reasons for which a permit or license may be cancelled or suspended under the terms of this Act. No such permit or license shall be renewed. The receiver or the then owners, however, may make an original application for a permit or license.

(c) It is further provided that the Board may, by rule or regulation, provide for the manner and time in which the successor in interest of any deceased, insolvent, or bankrupt permittee or licensee or receiver, or any person whose permit or license has been cancelled or placed in suspense, may dispose in bulk of alcoholic beverages left on hand at the termination of the use of such affected permit or license.

(d) It is expressly provided that the acceptance of a permit or license issued under either Article I or Article II of this Act shall constitute an express agreement and consent on the part of the permittee or licensee that the Board, any of its authorized representatives, or any peace officer shall have at all times the right and privilege of freely entering upon the licensed premises for the purpose of conducting any investigation or for inspecting said premises for the purpose of performing any duty imposed by this Act upon the Board, its representative, or any peace officer.

(e) Any bank, trust company, or financial institution owning or possessing warehouse receipts for alcoholic beverages, which warehouse receipts were acquired by such bank, trust company, or financial institution as security for a loan, may, after permission has been given by the Board or Administrator, sell such alcoholic beverages to the holder of a permit or license authorized to purchase such alcoholic beverages. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 4.

<sup>1</sup> Article 666—1 et seq.

<sup>2</sup> Article 667—1 et seq.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 666—15. Classification of permits

Permits shall be of the following classes:

(1) Brewer's Permit. A Brewer's Permit shall authorize the holder thereof to:

(a) Manufacture, bottle, package, label, and sell malt liquors. The privileges granted to a Brewer are confined strictly to malt liquor manufactured under his permit;

(b) Sell same in this State to wholesale permit holders only;

(c) Sell same out of State to qualified persons.

The annual State fee for a Brewer's Permit shall be One Thousand Dollars (\$1,000).

(2) Distiller's Permit. A Distiller's Permit shall authorize the holder thereof to:

(a) Manufacture and rectify distilled spirits except alcohol, and bottle, package, label, and sell same. The privileges granted to a distiller are confined strictly to distilled spirits manufactured and rectified under his permit;

(b) Sell same in this State to the holders of Wholesaler's Permits only;

(c) Sell same out of State to qualified persons;

(d) Import distilled spirits for manufacturing purposes only from the holders of Non-resident Seller's Permits.

The annual State fee for a Distiller's Permit shall be One Thousand Dollars (\$1,000).

(3) Class A Winery Permit. A Class A Winery Permit shall authorize the holder thereof to:

(a) Manufacture, bottle, label, package and sell wine containing not more than twenty-four (24) per centum of alcohol by volume;

(b) Manufacture and import grape brandy for fortifying purposes only and to be used only on his licensed premises;

(c) Sell same in this State to permit holders authorized to sell same to the ultimate consumer in unbroken packages for off-premise consumption;

(d) Sell same out of State to qualified persons;

(e) Blend wines and for that purpose only to import wines or grape brandy only from the holders of Non-resident Seller's Permits. In such instances the State tax on such imported wines shall not accrue until the wine has been used for blending purposes and the resultant product placed in containers for sale.

Such permit to be granted only upon presentation of a "Wine-maker's and Blender's Basic Permit" of the Federal Alcohol Tax Unit.

The annual State fee for a Class A Winery Permit shall be Fifty Dollars (\$50).

(4) Class B Winery Permit. A Class B Winery Permit shall authorize the holder thereof to:

(a) Manufacture, bottle, package, label, and sell wine from grapes, fruits, and berries grown on the permit holder's own premises only and containing not more than twenty-four (24) per centum of alcohol by volume;

(b) Manufacture and import grape brandy only from the holders of Non-resident Seller's Permits for fortifying purposes only and to be used only on his licensed premises;

(c) Sell same in this State to any permit holder authorized to sell the same and to the ultimate consumer in unbroken packages for off-premises consumption;

(d) Sell same to authorized persons out of State.

Such permit to be granted only upon presentation of a "Wine-maker's and Blender's Basic Permit" of the Federal Alcohol Tax Unit.

The annual State fee for a Class B Winery Permit shall be Ten Dollars (\$10).

(5) Rectifier's Permit. A Rectifier's Permit shall authorize the holder thereof to:

(a) Rectify, purify, and refine distilled spirits and wines other than vermouth by any process other than as provided for on distillery premises;

(b) Mix wines, distilled spirits, or other liquors;

(c) Bottle, label, package, and sell his finished products;

(d) Sell same in this State to Wholesale Permit holders only;

(e) Sell same out of State to qualified persons;

(f) Import distilled spirits only from the holders of Non-resident Seller's Permits for rectification purposes but not for resale.

The annual State Fee for a Rectifier's Permit shall be One Thousand Dollars (\$1,000).

(6) Wholesaler's Permit. A Wholesaler's Permit shall authorize the holder thereof to:

(a) Purchase and import liquor from distillers, brewers, wineries, wine bottlers, rectifiers and manufacturers, who are the holders of Non-resident seller's Permits, and their agents who are the holders of Manu-



facturer's Agents Permits and purchase same from other wholesalers within this State;

(b) Sell liquor in original containers in which received in this State to retailers and wholesalers authorized to sell same;

(c) Sell liquor out of State to qualified persons;

(d) It is provided that a person applying for a Wholesaler's Permit shall be authorized to include in a single application his petition for such permit, as well as for private storage, storage in a public bonded warehouse, and private carrier's permit, and any other permit which he is qualified to receive under the provisions of this Act. Provided, however, that such wholesaler shall pay the fees prescribed by this Act for each such permit covered in such Wholesaler's application. This same subdivision shall apply to a Class B Wholesaler's, Rectifier's, Brewer's, Distiller's, Class A Winery, and Class B Winery Permits.

The annual State fee for a Wholesaler's Permit shall be One Thousand, Two Hundred and Fifty Dollars (\$1,250).

(7) Class B Wholesaler. A Class B Wholesaler's Permit shall authorize the holder thereof to:

(a) Purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers and wine bottlers who are the holders of Non-resident Seller's Permits, and their agents who are the holders of Manufacturer's Agent's Permits, and purchase same from other wholesalers within the State;

(b) Sell same in original containers in which received in this State to retailers and wholesalers authorized to sell same;

(c) Sell same out of State to qualified persons.

The annual State fee for a Class B Wholesaler's Permit shall be Two Hundred Dollars (\$200).

(8) Package Store Permit. A Package Store Permit shall authorize the holder thereof to:

(a) Purchase liquor from the holders in this State of Class A Winery, Class B Winery, Wholesaler's, Class B Wholesaler's and Wine Bottler's Permits;

(b) Sell liquor on or from licensed premises at retail to consumer for off-premises consumption only and not for the purpose of resale, in unbroken original containers only;

(c) Sell malt and vinous liquors in original containers of not less than six (6) ounces;

(d) Sell vinous liquors, but in quantities of not more than five (5) gallons in original containers in any single transaction.

(e) Any person holding more than one Package Store Permit may designate one of the licensed premises as the place for storage of liquor, and he shall be privileged to transfer liquor to and from such storage to and from his other licensed premises under such rules and regulations as may be prescribed by the Board.

The annual State fee for a Package Store Permit in cities and towns shall be based upon the population according to the last preceding Federal Census as follows:

Population	Fee
25,000 or less	\$125.00
25,001 to 75,000	175.00
75,001 or more	250.00

The annual State fee for a Package Store Permit outside of cities and towns shall be One Hundred and Twenty-five Dollars (\$125), except the annual State fee for a Package Store Permit outside of any incor-

porated city or town and within two (2) miles of the corporate limits shall be the same as the fee required in said incorporated city or town.

(9) Wine Only Package Store Permit. A Wine Only Package Store Permit shall authorize the holder thereof to:

(a) Purchase wine and vinous liquors from the holders in this State of Class A Winery, Class B Winery, Wine Bottler's, Wholesaler's, and Class B Wholesaler's Permits;

(b) Sell wine and vinous liquors on or from licensed premises at retail to consumer for off-premises consumption only and not for the purpose of resale, in unbroken original containers only;

(c) Sell wine and vinous liquors, in unbroken original containers of not less than six (6) ounces;

(d) Sell wine and vinous liquors but in quantities of not more than five (5) gallons in unbroken original containers in any single transaction.

(e) Any person holding more than one Wine Only Package Store Permit may designate one of the licensed premises as the place for storage of wine and vinous liquors, and he shall be privileged to transfer wine and vinous liquors to and from such storage to and from his other licensed premises under such rules and regulations as may be prescribed by the Board.

The annual State fee for a Wine Only Package Store Permit to sell wine and vinous liquors only in cities and towns shall be based on population according to the last preceding Federal Census as follows:

Population	Fee
2,000 or less	\$ 5.00
2,001 to 5,000	7.50
5,001 to 10,000	10.00
10,001 or more	12.50

The annual State fee for a Wine Only Package Store Permit to sell wine and vinous liquors only outside of cities and towns shall be Five Dollars (\$5), except the annual State fee for a Wine Only Package Store Permit within two (2) miles of the corporate limits shall be the same as the fee required in said incorporated city or town.

(10) Agent's Permit. An Agent's Permit shall authorize the holder thereof to:

(a) Represent only the holders of permits within this State, other than retail permittees, authorized to sell liquor to retail dealers in Texas;

(b) Solicit and take orders for the sale of liquor from only authorized permit holders.

No such permit shall be granted to any person until he shall show to the satisfaction of the Board that he has been employed or authorized to act as agent for the holder of a permit required by this Act.<sup>1</sup>

It is not intended that an Agent's Permit shall be required of the employee of a permit holder who sells liquor but who remains on the licensed premises in making such sale.

No person holding an Agent's Permit shall be entitled to a Manufacturer's Agent's Permit.

It shall be unlawful for the holder of an Agent's Permit to transport or carry liquor as samples; provided that nothing herein shall restrict such person from carrying or displaying empty sample containers.

The annual State fee for an Agent's Permit shall be Five Dollars (\$5).

(11) Industrial Permit. No other provisions of this Act shall apply to alcohol intended for industrial, medicinal, mechanical, or scientific purposes. Industrial Permits may be issued to persons desiring to im-

port, transport, and use alcohol or denatured alcohol for the manufacture and sale of any of the following, tax-free:

- (1) Denatured alcohol;
- (2) Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
- (3) Flavoring extracts, syrups, condiments, and food products;
- (4) Scientific, chemical, mechanical, industrial, and medicinal products and purposes.

It shall be unlawful for any person to sell, possess, or divert any of the products enumerated in paragraphs (1), (2), (3), and (4), for beverage purposes, or to sell or divert any of the same under circumstances from which he might reasonably deduce the intention of the purchaser to be to use them for such purpose.

It shall be unlawful for any person to purchase, transport, or use alcohol for any purpose enumerated in this Section unless and until he shall have secured an Industrial Permit. It is provided however that the following are exempt from procuring such permit:

- (a). Druggists or pharmacists in the filling of prescriptions issued by a physician in the legitimate practice of medicine;
- (b). All state institutions;
- (c). All bona fide or chartered schools, colleges, universities for scientific or laboratory use;
- (d). All hospitals, sanatoria, or other bona fide institutions for the treatment of the sick.

The annual State fee for an Industrial Permit shall be Ten Dollars (\$10).

(12) Carrier Permit. The word "carrier" when used in this Section shall mean and include water carriers, airplane lines, all steam, electric, and motor power railway carriers, and common carrier motor carriers operating under a certificate of convenience and necessity issued by the Railroad Commission of Texas or by certificates issued by the Interstate Commerce Commission. The holders of such certificates shall be authorized to transport liquor into and out of this State and between points within this State. Such carriers shall furnish such information concerning the transportation of liquor as may be required by the Board.

The annual State fee for a Carrier Permit shall be Five Dollars (\$5).

(13). Private Carrier Permit. Brewers, distillers, wineries, rectifiers, wholesalers, Class B Wholesalers, and Wine Bottlers Permittees shall be entitled to transport liquor from the place of sale or distribution to the purchaser, upon vehicles owned in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this State, and any such permittee desiring to engage in such business for hire shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a Private Carrier Permit and such application shall contain all information which shall be required by the Board. All vehicles used for such transportation within the State by such permittees shall have printed or painted on said vehicles such designation as may be required by the Board. It shall be unlawful for any such permittee above-named to transport liquors in any vehicle not fully described in his application for a permit.

The annual State fee for a Private Carrier Permit shall be Five Dollars (\$5).

(14). Local Cartage Permit. The Board is hereby authorized to issue Local Cartage Permits to warehouse or transfer companies desiring to transport liquor for hire within the corporate limits of any city or town within this State. It shall be unlawful for any person to transport liquor for hire within any city or town unless and until he shall have secured such permit, or to transport the same in violation of the motor carrier laws of this State. In the case of local cartage, liquors shall not be transported by the holder of such Local Cartage Permit unless and until a description of each vehicle used in such transportation shall be furnished as may be required by the Board; and each such vehicle shall be plainly marked or lettered in such manner as to plainly indicate that such vehicle is being used for the transportation of liquors by the holder of a Local Cartage Permit. The transportation of liquor by the holder of a Local Cartage Permit in any vehicle not so described and marked shall be unlawful and shall constitute grounds for the cancellation of such permit. It shall be unlawful for the holder of a Local Cartage Permit to transport liquor for hire between incorporated cities or towns in this State.

The holder of a Package Store Permit or Wine Only Package Store Permit may also hold a Local Cartage Permit as provided in this Article. If the holder of a Package Store Permit or a Wine Only Package Store Permit is also the holder of a Local Cartage Permit as provided in this Section, he shall be privileged to transfer liquors as herein provided to or from any of his other licensed premises within the same county under said Local Cartage Permit.

The annual State fee for a Local Cartage Permit shall be Five Dollars (\$5).

(15). Bonded Warehouse Permits. A public bonded warehouse not located in dry area and which derives at least fifty per cent (50%) of its gross revenue in a bona fide manner during a period of each three (3) months from the storage of goods or merchandise other than liquors shall be qualified to obtain and hold a Bonded Warehouse Permit. Such Permit shall authorize the holder thereof to store liquors for any permittee who holds a permit to store in such public bonded warehouse. The holder of a Bonded Warehouse Permit shall furnish such information concerning the liquor stored and withdrawn as may be required by the Board.

The annual State fee for a Bonded Warehouse Permit shall be One Hundred Dollars (\$100).

(16). Storage Permit. The holders of Brewer's, Distiller's, Winery, Rectifier's, Wholesaler's, Wine Bottler's, and Class B Wholesaler's Permits shall be authorized to procure Storage Permits. Storage Permits may be used to store in a public bonded warehouse for which a permit has been issued, as well as to store in private warehouses owned and operated by the applicant. A permit must be procured for each place of storage. No Storage Permit shall be granted for any county other than the county in which the business of such holder of the Brewer's, Distiller's, Winery, Rectifier's, Wholesaler's, Wine Bottler's, or Class B Wholesaler's Permit is located; and no Storage Permit shall be issued to be located in any dry area. No permit need be procured by the above-named permit holders for the storage of stock in trade kept on the licensed premises. No additional fee shall be paid for Storage Permits.

(17). Wine and Beer Retailer's Permit. The Board or Administrator is authorized to issue Wine and Beer Retailer's Permits. The holders of such permits shall be authorized to sell for consumption on or off premises where sold, but not for resale, wine, beer and malt liquors con-

taining alcohol in excess of one-half of one per cent (1/2 of 1%) by volume and not more than fourteen per cent (14%) of alcohol by volume. All such permits shall be applied for and issued, unless denied, and fees paid, upon the same procedure and in the same manner and upon the same facts and under the same circumstances, and for the same duration of time, and shall be renewable in the same manner, as required and provided to govern application for an issuance of Retail Beer Dealer's Licenses under Article II of this Act,<sup>2</sup> and shall be subject to cancellation or suspension for any of the reasons that a Retail Beer Dealer's License may be cancelled or suspended, and under the same procedure. The holders of Wine and Beer Retailer's Permits shall also be subject to all provisions of Section 22, Article II of this Act.<sup>3</sup> All alcoholic beverages which the holders of such permits are authorized to sell shall be sold under the same restrictions as provided in Article II governing the sale of beer, as to hours of sale and delivery, local restrictions, sales to minors and intoxicated persons, age of employees, installation or maintenance of barriers or blinds, prohibition of the use of the word 'saloon' in the signs or advertising, and subject to the same restrictions upon consumption of wine as provided for beer in the case of Retail Beer Dealers in Section 15 of Article II of this Act.<sup>4</sup> For the violation of any applicable provisions of Article II the holders of such permits shall be liable for penalties provided in Article II; for the violation of any other provision of this Act the holders of such permits shall be subject to penalties provided in Article I of this Act.<sup>5</sup>

The annual State fee for a Wine and Beer Retailer's Permit shall be Thirty Dollars (\$30); provided, however, that a Wine and Beer Retailer's Permit may be issued for a railway dining, buffet, or club car upon payment of a fee of Five Dollars (\$5) for each car; provided, however, that application therefor and the payment of fee shall be made direct to the Board; and provided further that any such permit for a railway dining, buffet, or club car shall be inoperative in any dry areas as the same is defined in this Act.

(18). Wine Bottler's Permit. A Wine Bottler's Permit shall authorize the holder thereof to:

(a). Purchase and import wine only from the holders of Non-resident Seller's Permits, and their agents who are the holders of Manufacturer's Agent's Permits, and purchase wine from Wholesalers, Class A Winery, Class B Winery and Wine Bottlers within this State;

(b). Bottle, re-bottle, label, package, and sell wine to permit holders in this State authorized to purchase and sell the same;

(c). Sell same to qualified persons out of the State;

(d). Withdraw wine from a container without State tax stamps and transfer the same to other containers, and affix the State tax stamps to such containers before selling same;

(e). Keep a permanent record of every purchase and sale, showing the names of persons bought from and sold to, the gallonage and the per centum of alcohol by volume.

The annual State fee for a Wine Bottler's Permit shall be One Hundred and Fifty Dollars (\$150).

(19). Medicinal Permits. The owner of a pharmacy properly qualified as a pharmacy under the laws of this State shall be entitled to receive a Medicinal Permit and to buy and dispense liquor at such pharmacy for medicinal purposes only. And such pharmacy must be a bona fide pharmacy, continuously operated and continuously located for a period of not less than two (2) years in the particular justice precinct, incorporated town or city in which located at the time a permit is sought; provided, however, no pharmacy which has moved within two (2) years

immediately preceding the date of application into an incorporated town or city shall be entitled to a permit, and such pharmacy for which a permit is sought must, for a continuous period of two (2) years immediately preceding the date of application for a permit, have been registered with the State Board of Pharmacy and have had for such time employed in its service at all times a registered pharmacist. No permit shall be issued to any pharmacy previously holding a Medicinal Permit which had been cancelled after the effective date of this Act within a period of two (2) years from the date such cancellation had become effective.

Each and every applicant for a permit must present with such application a certificate issued by the State Board of Pharmacy, showing the registration record with that Board during the preceding two (2) years.

A Pharmacy Permit shall be cancelled by the Board or Administrator if the pharmacy for which the permit was issued moves into an incorporated town or city wherein such pharmacy has not been continuously located for a period of two (2) years or moves from the particular justice precinct in which the permit was issued.

It shall be unlawful for any holder of a Medicinal Permit, or the agent, servant, or employee thereof, to:

(a). Sell or dispense any liquor except upon a prescription issued by the holder of a Physician's Permit as required by this Act.

(b). Sell or dispense any liquor upon a prescription which does not meet the specifications required by this Act.

(c). Sell or dispense any liquor more than once on any prescription required by this Act.

(d). Sell or dispense any liquor upon a prescription bearing a date more than three (3) days prior to the date upon which the prescription is presented for filling.

(e). Sell or dispense any liquor not meeting the standards established by the United States Pharmacopoeia or National Formulary.

(f). Sell or dispense any liquor upon a prescription with knowledge of the fact that such prescription was written without physical examination of the patient by the physician prescribing such liquor.

(g). Sell or dispense any liquor to any person with knowledge of the fact that the name of the person to whom the prescription was issued is other than the true name of such person.

(h). Sell or dispense any liquor for any other than medicinal purposes.

(hh). Permit any liquor to be consumed on the premises.

(i). Sell or dispense more than one pint of liquor to any one person in any one day.

(j). Sell or dispense any liquor to any person without having first obtained physical possession of the prescription for such liquor.

(k). Sell or dispense any liquor upon a prescription bearing any false statement or information.

(l). Sell or dispense any liquor without first carefully examining the prescription upon which such sale is made.

(m). Prepare any prescription for liquor.

(n). Have in physical possession more than ten (10) gallons of liquor at any one time.

(o). Fail to preserve and keep for a period of two (2) years for inspection of any representative of the Board, or any peace officer or county or district attorney, at all times, any prescription upon which liquor has been sold.

(p). Fail to make or keep and to produce upon demand of any representative of the Board, or any peace officer, or county attorney or district attorney, for a period of two (2) years, any other record required by the Board to be made and kept.

(q). Fail to make any report to the Board within the time required for such report to be made.

(r). Make or cause to be made to the Board any report required to be made which is false in any particular.

(s). Fail or refuse to divulge to any representative of the Board or to any peace officer or to any county or district attorney any information concerning the purchase, storage, or disposal of liquor.

(t). Compensate in any manner any physician in this State for writing a prescription; or to guarantee to any physician any income, more or less, for the writing of prescriptions for liquor.

(u). Sell or dispense liquor in any one week, beginning Sunday at Midnight, upon prescription exceeding in number prescriptions filled for other medicines, excluding narcotics.

(v). Fail to affix to any container of liquor sold a label bearing in the English language the full name and address of the pharmacy making the sale, name and address of the physician prescribing, the full name and address of the patient to whom the sale is made, directions for use, and the signature of the pharmacist filling the prescription; or to fail to place on such label the number of the prescription being filled.

(w). Purchase or acquire stocks of liquor from any other person except the holder of a Wholesaler's Permit in Texas.

(x). Sell or dispense any liquor, with or without a prescription, to any person under the age of twenty-one (21) years, unless such person presents with such prescription a written consent of a parent or guardian upon which liquor may be prescribed and sold to such person; or to fail to file written consent with the prescription for such liquor.

(y). Sell or dispense any liquor, with or without a prescription, to any person showing evidence of intoxication.

(z). Fail to produce prescriptions for each container of liquor disposed of or unaccounted for.

The Board shall have the right by rule and regulation to require the keeping of records and the making of reports such as it may deem necessary and to pass rules and regulations governing permit holders in order to properly enforce the provisions of this Act.

The annual State fee for a Medicinal Permit for pharmacies in dry areas shall be Ten Dollars (\$10), and in wet areas the annual State fee shall be the same as the annual State fee for a Package Store Permit.

(20). Physician's Permits. A physician licensed by the State Board of Medical Examiners, authorizing the administration of internal medicine to human beings, may obtain a Physician's Permit. Such permit shall qualify such physician to write prescriptions for medical purposes, subject to restrictions herein contained.

No person who has been convicted for any violation of this Act, or who has had any permit provided by this Act cancelled within two (2) years preceding the date of filing an application for a permit, shall be entitled to a Physician's Permit.

Each applicant for a permit must present with the application a certificate issued by the State Board of Medical Examiners showing qualification to hold a permit under the terms of this Act.

The annual State fee for a Physician's Permit shall be One Dollar (\$1).

It shall be unlawful for any physician to:

(a). Prescribe liquor for any purpose unless he be the holder of a Physician's Permit.

(b). Prescribe liquor for any other than medicinal purposes.

(c). Issue prescriptions for liquor to any person without first having made a physical examination of the patient's person for the purpose of determining the disease or ailment afflicting such person.

(d). Issue to any person a prescription which does not bear thereon in the English language all of the information required by the specifications for prescriptions as defined by this Act.

(e). Accept any sort of compensation or guarantee as to income or material benefit from any holder of a Medicinal Permit for writing a prescription, or prescriptions, for medicinal liquor.

(f). Prescribe more than one (1) pint of liquor to any one (1) person in any one day.

(g). Prescribe liquor to any person showing evidence of intoxication.

(h). Prescribe liquor to any person under any name other than the true name of the person for whom such liquor is intended.

(i). Prescribe liquor for any person under the age of twenty-one (21) years, unless with the written consent of such person's parent or guardian.

(j). Fail or refuse to make and keep for a period of two (2) years any record of prescriptions issued for liquor as may be required by the Board; or to fail to make any reports as and when required by the Board; or to fail to divulge any information or to produce any records as to the issuance of prescriptions when called upon to do so by any representative of the Board, or any peace officer, or by any county or district attorney.

(k). Issue in the aggregate of more than one hundred (100) prescriptions in any period of ninety (90) days, beginning from the date designated by such physician in any order placed with the Board for such prescriptions.

Forms for prescriptions as referred to herein shall be only those forms prescribed and furnished by the Board in such form and manner as the Board may by rule and regulation determine. Such prescriptions, when issued, must bear thereon the date of issuance; the name and address of the issuing physician; the name, address, sex, and age of the patient, diagnosis of the disease or ailment of the patient; amount and type of liquor prescribed; directions as to the use by the patient; and the signature of the issuing physician. The prescribing of liquor on any form not obtained from the Board or in any manner not meeting the requirements herein specified shall be in violation of this Act. The Board shall have authority to adopt such regulations as to the printing of and issuances of prescription blanks, the keeping of records of prescriptions issued, the making of reports, and the disposal of unused, mutilated, or defaced blanks, as it may deem necessary to require physicians to strictly conform to the provisions of this Act. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 5.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

<sup>2</sup> Article 667—1 et seq.

<sup>3</sup> Article 667—22.

<sup>4</sup> Article 667—15.

<sup>5</sup> Article 666—1 et seq.



**Art. 666—15a1. Commissioners Courts and cities and towns authorized to levy fee on certain permittees; permits displayed; penalty**

Except as to Agent's, Industrial, Carrier's, Private Carrier's, Local Cartage, and Storage Permits, and as to such Wine and Beer Retailer's Permits as shall be issued to operators of dining, buffet, or club cars, and Class B Winery Permits, the Commissioners Court of each county in this State shall have the power to levy and collect from every person that may be issued a permit hereunder in said county a fee equal to one-half ( $\frac{1}{2}$ ) of the State fee; and the city or town wherein the licensed premises are located shall have the power to levy and collect a fee not to exceed one-half ( $\frac{1}{2}$ ) of the State fee, but no other fee or tax shall be levied by either. Nothing herein contained shall be construed as preventing the levying, assessing, and collecting of general ad valorem taxes on the property of said persons. The Board or Administrator may cancel the permit, or any renewal thereof, of any person upon finding that the permittee has not paid any fee levied by the county or city as provided in this Section. All permits shall be displayed in a conspicuous place at all times on the licensed premises. Any permittee or licensee who engages in the sale of any alcoholic beverage without having first paid the fees which may have been levied by the county or city as herein provided shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200). As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 6.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 666—17. Unlawful acts of permittees and others enumerated**

(1). It shall be unlawful for any person holding a Package Store Permit or a Wine Only Package Store Permit or owning an interest in a Package Store or a Wine Only Package Store to have an interest either directly or indirectly in a Manufacturer's License or a General Distributor's License or a Branch Distributor's License or a Local Distributor's License or a Wine and Beer Retailer's Permit or a Retail Dealer's On-Premise License or a Retail Dealer's Off-Premise License or the business thereof. The restrictions against any person who is the holder of a Package Store Permit or a Wine Only Package Store Permit or the owner of an interest in a Package Store or Wine Only Package Store having an interest either directly or indirectly in a Retail Dealer's Off-Premise License, shall not be applicable provided the Package Store Permit or Wine Only Package Store Permit and the Retail Dealer's Off-Premise License are issued to the same person and for the same address and for the same trade name. The holder of a Retail Dealer's Off-Premise License, who is also the holder of a Package Store Permit may sell beer direct to the consumer, but not for resale and not to be opened or consumed on or near the premises where sold, and such sales may be made only in lots of not less than six (6) containers (as defined in Article II<sup>1</sup>) holding twelve (12) ounces each, or in full multiples of such lots; or in lots of not less than three (3) containers (as defined in Article II) holding twenty-four (24) ounces each, or in full multiples of such lots; or in lots of not less than three (3) containers (as defined in Article II) holding thirty-two (32) ounces each, or in full multiples of such lots, except that the holder of a Retail Dealer's Off-Premise License who is also the holder of a Wine Only Package Store Permit may sell beer to the consumer by the container, but not for resale and not to be opened or consumed on or near the premises where sold. Such holders of Retail Dealer's Off-Premise Licenses are authorized to sell beer under the same

restrictions and shall be liable for penalties provided in Article I of the Texas Liquor Control Act<sup>2</sup>, governing the sale of liquor by Package Stores and Wine Only Package Stores, as to the hours of sale and delivery, blinds and barriers, employment of a person under the age of twenty-one (21) years, sales and delivery on Sunday, advertising, sale and delivery during any primary election day or general election day, sale and delivery to a person under the age of twenty-one (21) years; for the violation of any other provisions of this Act the holders of such licenses shall be subjected to the penalties provided in Article II of this Act.

Should any person holding a Package Store Permit or a Wine Only Package Store Permit, who is also the holder of a Beer Retail Dealer's Off-Premise License violate any provision of the Texas Liquor Control Act, as amended, or any Rule and Regulation of the Board made pursuant thereto, such violation shall constitute grounds for the suspension or cancellation of any or all permits and licenses held by such person.

(2). It shall be unlawful for any person after the effective date of this Act, directly or indirectly, to hold or have an interest in more than five (5) Package Store or Wine Only Package Store Permits, the business thereof, or any interest in such Package Stores or Wine Only Package Stores. For the purpose of this Section a husband shall be deemed to have an interest in all permits in which his wife has any interest, and a wife shall be deemed to have an interest in all permits in which her husband has any interest. For the purpose of construing this Section 17 (2)<sup>3</sup> the stockholders of a corporation holding a Package Store Permit or Wine Only Package Store Permit, the managers, officers, agents, servants, and employees thereof, shall be deemed to have an interest in such permit, in the business of such corporation, and in such Package Store or Wine Only Package Store; provided that this Section 17 (2) shall not in any manner affect or apply to any Package Store Permit or Wine Only Package Store Permit or the renewal thereof issued before and in effect on May 1, 1949, and the Board or Administrator shall grant and issue upon proper application a renewal of each Package Store Permit or Wine Only Package Store Permit which is in effect on May 1, 1949, if the applicant shall be otherwise qualified therefor under the provisions of this Article regardless of the provisions of this Section 17 (2).

Should any person hereafter holding more than five (5) permits, or any interest therein, have any of such permits in excess of five (5) cancelled by the Board, either voluntarily or for cause, then such person shall not have the privilege of obtaining any additional permit in lieu thereof, neither shall he be permitted to place any permit in suspense with the Board so long as he has an interest in more than five (5) permits.

This provision shall not apply to the stockholders, managers, officers, agents, servants and employees of corporations operating hotels in cases where the Package Stores or Wine Only Package Stores operated by such corporations are in hotels.

(a). Where a majority of the ownership in each of more than one (1) legal entity, holding permits under this Act, is owned by one (1) person, the businesses thereof may be consolidated under one (1) legal entity and the permits shall be issued to such entity notwithstanding any other provision of this Act<sup>4</sup> and further provided that after such consolidation it shall be illegal to transfer any of such permits to **any** other county.

(3). It shall be unlawful for any person who owns or has an interest in the business of a Distiller, Brewer, Rectifier, Wholesaler, Class B Wholesaler, Class A Winery, Class B Winery, or Wine Bottler, or any agent, servant, or employee:

(a). To own or have an interest, directly or indirectly, in the business, premises, equipment or fixtures of any retailer;

(b). To furnish, give, or lend any money, service, or other thing of value, or to guarantee the fulfillment of any financial obligation of any retailer;

(c). To make or offer to enter into an agreement, condition, or system, the effect of which will amount to the shipment and delivery of alcoholic beverages on consignment;

(d). To furnish, give, rent, lend, or sell to any retail dealer any equipment, fixtures, or supplies to be used in the selling or dispensing of alcoholic beverages;

(e). To pay or make any allowances to any retailer for a special advertising or distribution service, or to allow any excessive discounts;

(f). To offer any prize, premium, gift, or other similar inducement to any retailer or consumer, or the agent, servant, or employee of either.

(4). It shall be unlawful for any person operating under a permit under Article I of this Act to refuse to allow the Board, or any authorized representative of the Board, or any peace officer, upon request, to make a full inspection, investigation or search of any licensed premise or vehicle.

(5). It shall be unlawful for any person to employ anyone under twenty-one (21) years of age to sell, handle, transport, or dispense or to assist in selling, handling, transporting or dispensing any liquor.

(6). It shall be unlawful for any person who holds a permit under Article I of this Act to contribute any money or any thing of value toward the campaign expenses of any candidate for any office in this State.

(7). It shall be unlawful for any person to possess, buy, sell, or offer to buy or sell any empty carton, case, package, keg, barrel, bottle, or any other kind of container whereon the State tax stamps have not been mutilated or defaced.

(8). It shall be unlawful for any person to break or open any container containing liquor or beer, or to possess such opened container of liquor or beer on the premises of a Package Store or Wine Only Package Store.

(9). It shall be a violation of the law for any person whose permit has been suspended by the Board or Administrator to sell, offer for sale, distribute, or deliver any liquor during the period of such suspension.

(10). It shall be unlawful for any person to sell, barter, exchange, deliver, or give away any drink or drinks of alcoholic beverages to any person from a container that has for any reason been opened or broken on the premises of a Package Store or Wine Only Package Store.

(11). It shall be unlawful for any person to fail or refuse to comply with any requirement of this Act or with any valid rule and regulation of the Board.

(12). It shall be unlawful for any person, directly or indirectly, to be interested in, connected with, or to be a party to a consignment sale as herein defined.

(13). It shall be unlawful for any person to have in his possession, transport, manufacture, or sell any illicit beverage.

(14). It shall be unlawful for any person under the age of twenty-one (21) years to purchase any alcoholic beverage, and upon conviction thereof shall be fined in any sum not exceeding One Hundred Dollars (\$100).

(15). It shall be unlawful for any person to import, sell, offer for sale, barter, exchange, or possess for the purpose of sale any liquor the container of which contains less than one-half (1/2) pint; provided.

however, that in the case of malt or vinous liquor a six (6) ounce container shall be the minimum.

(16). It shall be unlawful for any person to have curtains, hangings, signs, or any other obstruction which prevents a clear view of the interior of any Package Store or Wine Only Package Store; provided, however, that this shall not apply to a drug store which holds a Package Store Permit or Wine Only Package Store Permit so as to prevent the display of drug merchandise.

(17). It shall be unlawful for any person to sell or offer to sell any alcoholic beverage that shall have been authorized by any permit or license held by him after notice of cancellation or suspension of such permit or license by the Board or Administrator shall have been given.

(18). It shall be unlawful for any carrier to import into this State and deliver any liquor to any person not authorized to import the same, or to transport and deliver liquor to any person in a dry area in this State, unless the same be for a lawful purpose as provided in this Act.

(19). It shall be unlawful for any person to manufacture, import, sell, or possess for the purpose of sale any alcoholic beverages made from dried grapes, dried fruits, or dried berries, or any compounds made from synthetic materials, substandard wines, imitation wines, or from must concentrated at any time to more than eighty (80°) degrees Balling.

(20). It shall be unlawful for any person to import or to transport into this State from any place outside the State any liquor, in containers to which have not been affixed proper State tax stamps consigned to, intended for delivery to, or being transported to any person or place located within the State boundaries, unless the same shall be consigned to the holder of a Wholesaler's Permit authorizing the sale of such liquor at his place of business.

(21). It shall be unlawful for any person under the age of twenty-one (21) years to import or possess for the purpose of importing any alcoholic beverage into the State of Texas. Any alcoholic beverage imported into or possessed for the purpose of importation into the State of Texas by any person under the age of twenty-one (21) years or possessed in violation of Section 17 (20) is declared to be an illicit beverage and may be seized without warrant unless otherwise provided in this Act.

(22). It shall be unlawful for any person to use, display, or to exercise any privilege granted by a permit except at the place, address, premise, or location for which the permit is granted, except that deliveries of and collections for alcoholic beverages may be made off the premises covered by the permit in areas where the sale thereof is not prohibited under the local option provisions of this Act, but only in the county in which the permit is located and only on bona fide orders placed by the customer in person at the premises covered by the permit, or upon orders placed by mail or telephone to such premises.

(23). It shall be unlawful for any person to consent to the use of or to allow his permit to be displayed by or used by any person other than the one to whom the permit was issued.

(24). It shall be unlawful for any holder of either an Agent's Permit or a Manufacturer's Agent's Permit in soliciting or taking orders for the sale of liquor to represent himself as an agent of any person other than the person designated in his application for permit.

(25). It shall be unlawful for the holder of a Brewer's, Distiller's, Rectifier's, Wholesaler's, Class B Wholesaler's, or Wine Bottler's Permit, or any agent, servant, or employee thereof, to sell or deliver liquor to any person who is not the holder of a permit authorizing the resale of liquor in this State.

(26). It shall be unlawful for any retail dealer, or any agent, servant, or employee thereof, to conspire with any person to violate any of the provisions of this Section or to accept the benefits of any act prohibited by this Section.

(27). It shall be unlawful for the holder of any permit provided for in this Act authorizing the importation of liquor, or the agent or employee of such person, to purchase from, order from or give an order to, any person who is not the holder of a Non-resident Seller's Permit, or any holder of a Non-resident Seller's Permit during the period of any suspension ordered by the Board or Administrator against any such Non-resident Seller's Permit after such authorized importer has received notice of such suspension.

(28). It shall be unlawful for any holder of a Distiller's Permit or Rectifier's Permit, or any person, firm or corporation engaged in distilling or rectifying liquor, either within or without the State of Texas, or for any officer, director, agent, or employee thereof, or for any affiliate, whether corporate or by management, direction or control, to own, have or hold any interest in the permit, business, assets or corporate stock of the holder of any Wholesaler's Permit.

It shall be unlawful for the holder of any Wholesaler's Permit to be affiliated with the holder of any Distiller's Permit or Rectifier's Permit, or any person, firm or corporation engaged in distilling or rectifying liquor, either within or without the State of Texas, either directly or indirectly, or by or through any officer, director, agent or employee or by management, direction or control.

(29). It shall be unlawful for the holder of any Wholesaler's Permit to own, have, possess, or sell any liquor manufactured, distilled or rectified by any person, firm or corporation who or which is directly or indirectly affiliated with such holder of a Wholesaler's Permit, whether such affiliation be corporate or by management, direction or control, or by or through any officer, director, agent, or employee; provided, that this shall not apply to the holder of a Wholesaler's Permit who held a Wholesaler's Permit on January 1, 1941, and continuously since that date, and who was so affiliated on that date, and also was on January 1, 1941, selling liquors manufactured, distilled, or rectified by such affiliate.

(30). If any person, while holding a permit, shall be finally convicted of a felony, the Board or Administrator may cancel any permits held by such person upon satisfactory proof of such conviction.

(31). It shall be unlawful for any person whose permit has been suspended by the Board or Administrator to sell, offer to sell, distribute or deliver any liquor during the period of such suspension.

(32). For tax purposes only, distilled spirits contained in a container having attached thereto the Federal Liquor Strip Stamp or imported from any foreign country are hereby subject to taxation, and must have affixed thereto the appropriate Texas Tax Stamp for distilled spirits.

(33). It shall be unlawful for any person to transport or ship or cause to be transported or shipped any alcoholic beverage into any area in this State in which the State has ceded police jurisdiction to the Federal Government or to any of its agencies unless the containers or packages holding such alcoholic beverages shall have affixed thereto Texas Tax Stamps as required by this Act, and it shall be unlawful for any person to transport distilled spirits into this State unless the same shall be consigned and delivered to the holder of a Wholesaler's Permit. Nothing in this Section shall be interpreted to impose upon common carriers the duty to see that such tax stamps are affixed.

(34). It shall be unlawful for the holder of an Agent's Permit or Manufacturer's Agent's Permit to have any interest, directly or indirectly, in a Package Store Permit or a Wine Only Package Store Permit or to be residentially domiciled with any person who has any financial interest in a Package Store Permit or Wine Only Package Store Permit.

(35). It shall be unlawful for the holder of a Brewer's, Distiller's, Class A Winery, Class B Winery, Rectifier's, Wholesaler's, Class B Wholesaler's, or Wine Bottler's Permit, directly or indirectly, or through a subsidiary or affiliate, any agent or any employee, or by any officer, director or firm member, to own any interest of any kind in the premises of a Package Store or Wine Only Package Store, or any interest of any kind in the premises in which any such Package Store or Wine Only Package Store conducts its business.

(36). It shall be unlawful for any person who is the holder of a license or permit to possess or display on the licensed premises any card, calendar, placard, picture, or handbill that is immoral, indecent, lewd or profane.

(37). It shall be unlawful for any Wholesaler, Class B Wholesaler, Class A Winery or Wine Bottler to sell any alcoholic beverage, nor shall any Package Store Permittee, Wine Only Package Store Permittee, or other retailer purchase any alcoholic beverage, except for cash or on terms requiring payment by the purchaser as follows: On purchases made from the first to fifteenth day inclusive of each calendar month, payment must be made on or before the twenty-fifth day of the same calendar month; and, on purchases made from the sixteenth to the last day inclusive of each calendar month, payment must be made on or before the tenth day of the succeeding calendar month. Every delivery of alcoholic beverage must be accompanied by an invoice of sale giving the date of purchase of such alcoholic beverage. In the event any Package Store Permittee, Wine Only Package Store Permittee or other retail dealer becomes delinquent in the payment of any account due for alcoholic beverages purchased, (that is, if he fails to make full payment on or before the date hereinbefore provided) then it shall be the duty of the Wholesaler, Class B Wholesaler, Class A Winery or Wine Bottler to report that fact immediately to the Board or Administrator in writing. Any Package Store permittee, Wine Only Package Store Permittee or other retail dealer who becomes delinquent shall not be permitted to purchase alcoholic beverages from any Wholesaler, Class B Wholesaler, Class A Winery or Wine Bottler until said delinquent account is paid in full, and the delinquent account shall be cleared from the records of the Board before any Wholesaler, Class B Wholesaler, Class A Winery or Wine Bottler will be permitted to sell alcoholic beverages to him. Any Wholesaler, Class B Wholesaler, Class A Winery or Wine Bottler who accepts postdated checks, notes or memoranda or who participates in any scheme, trick, or device to assist any Package Store Permittee, Wine Only Package Store Permittee or other retail dealer in the violation of this Section shall likewise be guilty of a violation of this Section. The Board shall have the power and it shall be its duty to adopt rules and regulations giving full force and effect to this Section. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 7.

<sup>1</sup> Article 667—1 et seq.

<sup>2</sup> Article 666—1 et seq.

<sup>3</sup> This subsection.

<sup>4</sup> Articles 666—1 et seq., 667—1.

**Art. 666—21a. Stamps; issuance**

Stamps for spirituous liquor shall be issued only in multiples of the rate assessed for each half-pint: stamps for wine shall be issued in multiples of the rate assessed for each pint and for each one-tenth (1/10) of a gallon; stamps for malt liquors containing alcohol in excess of four per cent (4%) by weight shall be issued in multiples of the rate assessed for each seven (7) fluid ounces or each twelve (12) fluid ounces; provided that where any such liquors are contained in containers of one-fifth (1/5) of a gallon, stamps shall be issued therefor at the assessed rate for each such type of liquor; and provided further, that where any such distilled spirits are contained in containers of one-tenth (1/10) of a gallon, stamps shall be issued therefor at the assessed rate for each such type of distilled spirits. It is further provided that the taxes herein levied and assessed shall be paid and collected by stamps as provided in this Section. But nothing herein shall affect the powers and rights conferred upon the Texas Liquor Control Board in Article VII of House Bill No. 3 of the First Called Session of the Fifty-first Legislature.<sup>1</sup> As amended Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. IX, § 1.

<sup>1</sup> Art. 666—21½.

Emergency. Effective Feb. 28, 1950.

Section 2 of Art. LX of the act of 1950 read as follows: "Notwithstanding any other provision of this Act, it is not the intention of the Legislature that this Article

shall expire on August 31, 1951, but it is the intention of the Legislature that it shall be a permanent amendment to Article I of the Texas Liquor Control Act."

**Art. 666—21½. Additional taxes**

Sub-section 1. In addition to all other fees and taxes, there is hereby levied and imposed on the first sale the following:

(a) A tax of ten per cent (10%) of One Dollar and twenty-eight cents (\$1.28) per gallon on each gallon of distilled spirits, provided the minimum tax levied in this Section on any package of distilled spirits shall be ten per cent (10%) of eight cents (8¢).

(b) A tax of ten per cent (10%) of ten cents (10¢) on each gallon of vinous liquor that does not contain over fourteen per cent (14%) of alcohol by volume.

(c) A tax of ten per cent (10%) of twenty cents (20¢) on each gallon of vinous liquor containing more than fourteen per cent (14%) and not more than twenty-four per cent (24%) of alcohol by volume.

(d) A tax of ten per cent (10%) of twenty-five cents (25¢) on each gallon of artificially carbonated and natural sparkling vinous liquor.

(e) A tax of ten per cent (10%) of fifty cents (50¢) on each gallon of vinous liquor containing alcohol in excess of twenty-four per cent (24%) by volume.

(f) A tax of ten per cent (10%) of fifteen cents (15¢) on each gallon of malt liquor containing alcohol in excess of four per cent (4%) by weight.

The term "first sale" as used in this section shall mean and include the first sale, possession, distribution, or use in this State of any and all liquor refined, blended, manufactured, imported into, or in any other manner produced or acquired, possessed, or brought into this State; but shall not include sales of liquor by permittees authorized to sell at retail only where such sales are made from stocks on hand and in possession of such permittee on the effective date of this section.

The tax herein levied shall be paid by affixing a stamp or stamps on each bottle or container of liquor. Said stamps shall be affixed in strict

accordance with any rule or regulation promulgated in pursuance of this Act.

It shall be the duty of each person who makes a first sale of any liquor in this State to affix said stamps on each bottle or container of liquor and to cancel the same in accordance with any rule and regulation of the Board. The Board shall have power to relax the foregoing provision when in its judgment it would be impracticable to require the affixing of such stamp on the bottle or container, irrespective of any other provision of this Act. And any person, persons, or association who violates any portion of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year. Every holder of a permit authorizing the wholesaling of liquor, upon receipt of a shipment of liquor for sale within this State, under the provisions of this Act, shall prepare and furnish such information and such reports as may be required by rules and regulations of the Board.

Sub-sec. 2. Stamps for distilled spirits evidencing the tax levied in sub-division (a) of this Section 21½ of this Article shall be supplied by the Treasurer to all authorized to purchase them at a discount of two per cent (2%) of the face value thereof when purchased in lots of Five Hundred Dollars (\$500) or more.

Sub-sec. 3. It is further provided that the tax herein levied shall apply and attach to all liquor which shall be in storage or in the possession of any permittee, other than one authorized to sell at retail only, for the purpose of sale, and that all such permittees having possession of any liquor for the purpose of sale shall on the effective date hereon render and submit to the Texas Liquor Control Board at Austin, Texas, a true and correct sworn inventory of all such liquors, setting forth in detail the size of containers and the quantity thereof. Such inventory shall be rendered upon a form to be prescribed and furnished by the Board. Such inventory must be placed in the United States mail, addressed to the Texas Liquor Control Board at Austin, Texas, within twenty-four (24) hours of the effective date hereof, and a true, correct, and exact copy thereof must be retained by the person making such report. Failure or refusal to render such inventory shall be deemed sufficient grounds for the cancellation of any permit or license by the Board, and, in addition thereto, any such person shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the County Jail for any term not more than one (1) year, or by both such fine and imprisonment.

Sub-sec. 4. It is further provided that the Texas Liquor Control Board shall have printed and supplied to the State Treasurer, and the State Treasurer shall have on demand, tax stamps of such values as will enable any permittee, other than one authorized to sell at retail only, having possession of liquors with legal and valid Texas tax stamps affixed of a different rate of assessment than is herein provided to affix an additional stamp on each container so that the added amount of tax paid, as represented by such additional stamp together with the one originally affixed, will equal the total amount of tax levied by law. All liquors in containers to which have not been affixed proper tax stamps, or stamps in the aggregate to show payment of all tax as levied by law, are hereby declared to be illicit beverages and subject to seizure and forfeiture as otherwise provided by law, and any person in possession thereof shall be prosecuted for the possession of illicit beverages as provided by law;



but this shall not apply to stocks on hand in the possession of permittees authorized to sell at retail only or their vendees.

Sub-sec. 5. The Texas Liquor Control Board is hereby authorized to promulgate and enforce rules and regulations requiring the filing of inventories and the issuance and distribution of stamps through its representatives, and for the inspection of liquor stocks wherever they may be in this State, such as may be deemed necessary to enforce compliance with this Article.

Sub-sec. 6. The tax levied in this Section 21½ is on sales made prior to midnight of August 31, 1951.

Sub-sec. 6½. The above described method of payment of the liquor tax herein levied shall not be in force and effect if, as and when and during the period of time for which the Texas Liquor Control Board, by rule and regulation, has prescribed another or different method of the payment of such tax, either with or without the additional stamps provided above. The Texas Liquor Control Board is fully authorized and empowered to adopt and promulgate, from time to time, rules and regulations relative to the collection of such tax levied in this Section; and such rule or regulation may be adopted and become effective with or without the statutory notice provided for the adoption of other rules and regulations of the Board. Such rules and regulations may include provisions for the present stamps, or stamps of the present denominations, to evidence the payment of both the tax herein levied and the tax heretofore levied in the Texas Liquor Control Act as amended, both as to collection of such tax and any refunds authorized under this Section 21½. It shall be the duty of the State Treasurer in connection with the sale of any stamps used to evidence the payment of such tax, to follow and comply with any rule or regulation of the Board pursuant to the power granted herein. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. I, § 21½, added Acts 1950, 51st Leg., p. 10, ch. 2, Art. VII, § 1.

Section 2 of Art. VII of the act of 1950 read as follows: "The provisions of this Article shall be effective and become law on the first day of the first month after the effective date [Feb. 28, 1950] of this Act. The Texas Liquor Control Board is hereby authorized and directed to refund to any permit holder other than one authorized to sell at retail only, having on hand on September 1, 1951, merchandise to which is affixed the stamp evidencing payment of the additional tax levied in Section 1 hereof, the amount of such ad-

ditional tax shown to have been paid on such merchandise, as well as refund to any such permittee the purchase price of any of such stamps evidencing the additional tax which such permittee has on hand at that time. The Board is authorized to make such rules and regulations as it may deem necessary relative to determining the amount of refund due and the repayment thereof. And there is hereby appropriated out of the funds derived from the sale of liquor tax stamps, such sum as may be necessary to make such refunds."

**Art. 666—30. Beverages and property forfeited to state; sale; destruction; ceiling prices during emergency; reports**

(a) All alcoholic beverages and the containers thereof, and any device in which the alcoholic beverage is packaged, equipment, and other property forfeited to the State, unless otherwise herein provided, and all illicit beverages and the containers thereof, and any device in which the alcoholic beverage is packaged is 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 bev-

erages unfit to be sold for public consumption, or of illicit manufacture, may be sold by the Board, but may be destroyed by the Board.

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 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) Thirty-five per cent (35%) of all moneys derived from the sale of alcoholic beverages, containers, any device in which said alcoholic beverages are packaged, or property, as authorized in Paragraph (a) of this Section shall be placed in a separate fund in the State Treasury to be designated as the Confiscated Liquor Fund, and thereafter all moneys in said fund shall be available to the Board to defray the expenses, and is hereby appropriated for said purpose of purchasing and accumulating evidence as to violations of the provisions of this Act, and to defray the expenses incurred in assembling, storing, transporting, selling and accounting for said confiscated alcoholic beverages, containers, devices and property and for any other purpose deemed necessary by the Board in administering and enforcing the provisions of the Texas Liquor Control Act. Any unexpended portion of said fund at the end of each biennium shall remain in said fund subject to further appropriation for such purposes. Sixty-five per cent (65%) of all moneys derived from the sales herein referred to shall be 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 (2) copies of which shall be verified by oath; one (1) verified copy shall be retained in the permanent files of the Texas Liquor Control Board or other agency making the seizure, and one (1) 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 (1) copy shall be delivered to the owner, operator, or person from whom such seizure is made. A false statement of said confiscated alcoholic beverage, or other personal property shall be punishable as now provided for false swearing. Any failure on the part of the peace officer making such seizures to file said reports shall constitute a misdemeanor and upon conviction thereof shall be fined not more than One Hundred Dollars (\$100) nor less than Fifty Dollars (\$50) or shall be confined in jail not less than ten (10) days nor more than ninety (90) days or by both such fine and imprisonment. It shall be the duty of the Texas Liquor Control Board and its agents to see that said reports are made by said peace officers and, that upon conviction of the person or persons from whom such liquors were confiscated, the Texas Liquor Control Board shall take possession of all such Confiscated liquors. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 8.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 666—36. Conformity to general election laws**

Application of laws relating to ballots,  
see Vernon's Ann.Civ.St., art. 3153a.

**Art. 666—361/2. Election supervisors**

In any election held under authority of the Texas Liquor Control Act<sup>1</sup> in any city, county or justice precinct of this State, five per cent (5%) of the qualified voters listed on the current Poll list, but not necessarily more than forty (40) of the qualified voters so listed, of any voting precinct in said city, county or justice precinct where said election is to be held, may apply in writing to the County Judge for the appointment of one or more supervisors to serve on election day in the polling place of said voting precinct. Said application shall nominate for appointment as supervisor or supervisors, persons who are resident qualified voters in the voting precinct of which the applicants seeking their appointments are resident qualified voters. Upon determination by the County Judge that the above conditions have been complied with in all respects, he shall, not less than three (3) days preceding the date of said election, appoint in writing each supervisor so nominated in said application, provided, however, that not more than four (4) supervisors shall be appointed for one (1) precinct. Any such supervisor shall be permitted free access to all parts of the polling place so that he can hear the testing of prospective voters and can observe the conduct of the election, including the counting of the votes, the locking and sealing of the ballot boxes, their custody and safe return. He shall not be permitted to enter into any conversation with the judges or clerks regarding the election while it is progressing, except to call the attention of the judges or clerks to any irregularity or to any violation of the law that he may observe. It shall be his right to be present at the marking of the ballot of any voter requiring the aid of the judge of said election in marking his ballot, to see that said ballot is marked in accordance with the wishes of the voter and in compliance with the law. He shall have the right to see that each ballot is correctly called and tabulated. Before he shall be permitted to act as supervisor, he shall take an oath, to be administered by the presiding judge, that he will mention and note any irregularities he may observe in testing prospective voters or in counting the votes, and that he will well and impartially truly discharge his duties as supervisor and will report in writing to the next grand jury all violations of the law and irregularities that he may observe. The supervisors appointed by virtue of the provisions of this Act shall be compensated by the citizens upon whose application they were appointed. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 36½, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 12.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 666—41a. Certified copies of judgment and of information to be furnished Board; certifying results of local option election; report as to status of wet and dry areas**

It shall be the duty of the County Clerk of each County to furnish to the Texas Liquor Control Board or representative upon demand a certified copy of the judgment of conviction and a certified copy of the information against any person when such person has been convicted for the violation of any provisions of this Act.<sup>1</sup> Such certified copies shall be furnished the Board or its authorized representative free of charge.

County Clerks are also charged with the duty to certify the results of any local option election to the Texas Liquor Control Board at Austin, Texas, within three (3) days after the Commissioners Court of such county has declared the results thereof, free of charge.

On August 1st of each year it shall be the duty of each County Clerk to report to the Board at Austin, Texas, the exact status as to wet and dry areas of his county, specifying the status of the county as a whole and of each incorporated city or town of each justice precinct of said county. Such information shall be furnished the Board free of charge.

It shall be the duty of the District Clerk of each district to furnish to the Texas Liquor Control Board or representative upon demand a certified copy of the judgment of conviction and a certified copy of the information against any person when such person has been convicted for the violation of any provision of this Act. Such certified copies shall be furnished the Board or its authorized representative free of charge. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 9.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 666—42. Seizures; suit for forfeiture; intervention by claimants; sale**

(a) All illicit beverages as defined by this Act<sup>1</sup> together with the containers and any device in which the beverage is packaged, and any wagon, buggy, automobile, water or aircraft, or any other vehicle, used for the transportation of any illicit beverage, or any equipment designed to be used or which is used for illicit manufacturing of beverages, or any material of any kind which is to be used in the manufacturing of illicit beverages, may be seized with or without a warrant by an agent or employee of the Texas Liquor Control Board, or by any peace officer, and any person found in possession or in charge thereof may be arrested without a warrant. No alcoholic beverages, containers, or any device in which such beverage is packaged so seized shall be replevied, but shall be delivered to and stored by the Board, or by any Sheriff, to be held for final action of the court as hereinafter provided. Any such wagon, buggy, automobile, water or aircraft or any other vehicle so seized may be replevied by the owner thereof or lawful lien holder thereon upon execution by him of a good and valid bond with sufficient surety in a sum double the appraised value of the property replevied, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial of any suit for the forfeiture of such property to abide the judgment of the court.

(b) It shall be the duty of the Attorney General, the District Attorney, and the County Attorney, or any of them, when notified by the officer making the seizure, or by the Texas Liquor Control Board, that such seizure has been made, to institute a suit for forfeiture of such alcoholic beverages and property, such suit to be brought in the name of the State of Texas against such beverages and property in any court of competent jurisdiction in the county wherein such seizure was made. Notice of pendency of such suit shall be served on any person found in possession of the beverages or property at the time of seizure in the manner prescribed by law and the case shall proceed to trial as other civil cases. If no person be found in possession of the beverages or property, or if at the time suit is filed the whereabouts of those in pos-

session is unknown, notice shall be posted at the courthouse door in the county wherein the property was seized for a period of twenty (20) days. If upon the trial of such suit it is found that the alcoholic beverages are illicit, or that the vehicle was used for the transportation of illicit beverages, or that the equipment is designed to be used or is used for illicit manufacturing of beverages, or the material is to be used in the manufacturing of illicit beverages then the court trying said cause shall render judgment forfeiting the beverages and property to the State of Texas and ordering the same disposed of as provided for by Section 30 of this Article<sup>2</sup>, or if in the opinion of the Board or Administrator any such property, except alcoholic beverages, is needed for the use of the Board, then the same may be retained and so used until such time as such property is sold by the Board as provided herein. The costs of such proceedings shall be paid by the Board, out of funds derived under the provisions of said Section 30, or from any other fund available to the Board for such purpose.

(c) As to any property or articles upon which there may be a lien, by a bona fide lienholder, the holder of such may intervene to establish his rights and shall be required to show such lien to have been granted in a bona fide manner and without knowledge of the fact at the time of creation of the lien, that any article or property upon which such lien exists had been used or was to be used in violation of this Act. If the holder of any such lien shall intervene, then the court trying said cause shall render judgment forfeiting the same to the State of Texas, and if such lien is established to the satisfaction of the court, said court shall authorize the issuance of an order of sale directed to the sheriff or any constable of the county wherein the property was seized, commanding such officer to sell said property in the same manner as personal property is sold under execution. The Court may order such property sold in whole or in part as it may deem proper and the sale shall be conducted at the courthouse door. The money realized from the sale of such property shall be applied first to the payment of the costs of suit and expenses incident to the sale and after such expenses have been approved and allowed by the court trying the case, then the further proceeds of such sale shall be used to pay all such liens according to priorities, and any remaining proceeds shall be paid to the Board to be allocated as provided in Section 30 hereof. All such liens against property sold under this Section shall be transferred from the property to the proceeds of its sale. In case such lien is not established to the satisfaction of the court the judgment shall be entered ordering same disposed of as provided in subsection (b) of this Section.

The sheriff, constable, or Texas Liquor Control Board executing said sale shall issue a bill of sale or certificate to the purchaser of said property, and such bill of sale or certificate shall convey valid and unimpaired title to such property. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 10.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

<sup>2</sup> Article 666—30.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 666—44. Repealed. Acts 1949, 51st Leg., p. 1011, ch. 543, § 11.**  
Eff. 90 days after July 6, 1949, date of adjournment

Seizures of vehicles and equipment, see art. 666—42.

**Art. 666—49a. Suspension or cancellation of permits for breach of peace**

The Board or Administrator shall have the power and authority to suspend for a length of time not exceeding thirty (30) days any retail Package Store Permit, Wine Only Package Store Permit, or Medicinal Permit upon ascertaining that any act constituting a breach of the peace has occurred upon the premises covered by the permit of such retail dealer or under his control, and at the expiration of the period for which such permit has been suspended the Board or Administrator may further suspend or cancel the permit unless it shall have been shown to the satisfaction of the Board or Administrator that the act was beyond the control of the person holding the permit and did not result from improper supervision by the permittee of the conduct of persons permitted by him to be on the licensed premise or premises under his control. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 49, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 12.

Effective 90 days after July 6, 1949, date of adjournment. "49". As Art. I of the act of 1935 already had a section 49, set out as Art. 666—49,

Section 12 of the act of 1949 added the new section has been numbered 666—49a. several new sections to Article I of the Act of 1935, one of which was numbered

**Art. 666—50. Prohibited forms of advertising**

It shall be a violation of the law for any person to advertise any alcoholic beverage or the sale of any alcoholic beverage by the employment or use of a sound vehicle, sound truck or hand bills on any public street, alley, or highway in this State. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 50, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 12.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 666—51a. Offensive music, noise and other sounds**

It shall be unlawful for any licensee or permittee, his agent, servant or employee, on premises under his control, to maintain or permit a radio, television machine, amplifier, loud-speaker, public address system, piano, phonograph, music machine, orchestra, band, singer, speaker, entertainer, or any other device or person which produces, amplifies or projects music, noise or other sound which is loud, vociferous, vulgar, indecent, lewd or otherwise offensive to the public on or near the licensed premises. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 51, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 12.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 666—52. Package store permit holders; local cartage permit; transportation of ale**

The holder of a Package Store Permit or Wine Only Package Store Permit may hold also a Local Cartage Permit and may include the application for such Local Cartage Permit in his application for a Package Store Permit or Wine Only Package Store Permit. The fees for both such permits must be paid and proper bond made before the issuance or granting thereof.

The Board may by rule and regulation prescribe the manner in which ale may be transported within the State of Texas by the holder of a Private Carrier Permit who is also the holder of a Class B Wholesaler's Permit.

Should any holder of a Local Cartage Permit who is also the holder of a Package Store Permit or Wine Only Package Store Permit be convicted of any violation of the Texas Liquor Control Act, as amended,<sup>1</sup> or any rule or regulation of the Board made pursuant thereto, such final conviction shall constitute grounds for the suspension or cancellation of any or all permits held by such person. Acts 1935, 44th Leg., 2nd C. S., p. 1795, ch. 467, art. 1, § 52, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 12.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 666—53. Interest in consignment sales

It shall be unlawful for any person holding a license or permit under Articles I or II of this Act<sup>1</sup>, his or its officers, agents, servants or employees, directly or indirectly, to be interested in, connected with, or be a party to a consignment sale as defined in the Texas Liquor Control Act. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 53, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 12.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 666—54. Certification of facts by county clerk and city secretary or clerk

The county clerk of the county in which an application for a license or permit is made shall certify whether or not the location or address given in the application is in a wet area and whether or not the sale of alcoholic beverages for which the license or permit is sought is prohibited by any valid order of the County Commissioners Court.

The city secretary or clerk of the city in which an application for a license or permit is made shall certify whether or not the location or address is in a wet area and whether or not the sale of alcoholic beverages for which license or permit is sought is prohibited by charter, ordinance or any amendment thereto. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 54, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 12.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 666—55. Election days; definitions

“General Primary Election Day” as that term is used in this Act shall mean and refer to Article 3102 of the Revised Civil Statutes of the State of Texas.

“General Election Day” as that term is used in this Act shall mean the first Tuesday following the first Monday in November of every even numbered year. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 55, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 12.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 666—56. Non-resident sellers; samples and labels

Each holder of a Non-resident Seller's Permit, as provided in Section 15½ A. of Article I of the Texas Liquor Control Act,<sup>1</sup> before making any shipments into the State of Texas of any distilled spirits shall furnish to the Board samples and applications for label approval of each brand of such distilled spirits properly labeled, in the container in which such is to

be sold. The Board or its authorized agents shall test the contents of the sample for, among other things, fill, quality and purity, and examine the label and container and determine whether or not the container, contents and label comply with and meet the requirements of the laws of the State and the rules and regulations of the Board.

If they do comply, the Board shall issue a certificate to such holder to that effect and thereafter, unless there be a change in the label, contents, style or size of the container, it shall not be necessary for such holder, as to distilled spirits imported direct from the distiller, bottler, or the exclusive agent of the distiller or bottler, or as to distilled spirits distilled or bottled by the holder or by a distiller or bottler for whom he is the exclusive agent, to again submit samples of the approved brands until directed to do so by the Board. As to distilled spirits not imported direct from the distillery or distilled or bottled by such holder or a distiller or bottler for whom holder is exclusive agent, samples as provided above must be furnished to the Board as to each and every brand and size in each and every shipment into the State of Texas, together with a sworn statement of the quantity and sizes to be shipped into the State, the permittee to whom it is to be shipped, the person or firm from whom shipped, and holder must have the certificate of approval from the Texas Liquor Control Board in his possession before such shipment is made. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 56, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 12.

<sup>1</sup> Article 666—15½.

Effective 90 days after July 6, 1949, date of adjournment.

## II. MALT LIQUORS

### Art. 667—3. License required

It shall be unlawful for any person to manufacture or brew beer for the purpose of sale, or to import into this State, or to distribute, or to sell any beer, or to possess any beer for the purpose of sale within this State without having first obtained appropriate license as herein provided, which license shall at all times be displayed in some conspicuous place within the licensed place of business.

(a) A Manufacturer's License shall authorize the holder thereof to manufacture or brew beer and to distribute and sell same to others; and to dispense beer for consumption on Manufacturer's premises; and shall also authorize the holder to bottle, can, or pack into containers beer for resale to any place in this State to others, regardless of whether such beer is manufactured or brewed in the State of Texas, or in any other State of the United States, and imported into Texas; provided that no beer shall be imported into this State except in accordance with the provisions of this Act,<sup>1</sup> that is, in barrels or other containers, and shall at no time be shipped into this State in tank cars; provided that the Texas Liquor Control Board shall have the same functions, powers and duties to adopt and enforce a standard of quality, purity, and identity of malt beverages, and to promulgate all such rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure sanitary conditions in the manufacturing, purifying, bottling, and rebottling of beer under a Manufacturer's License as apply to Manufacturers located within the State of Texas. Every person, agent, receiver, trustee, firm, corporation, association, or copartnership opening, establishing, operating or maintaining one (1) or more establishments under a Manufacturer's License 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 establishments. Each establishment bottling beer of the same brand or beer brewed by the same Manufacturer shall be held to be under a common management and control, and shall be subject to the license fees prescribed herein regardless of the nature of control or ownership of each separate establishment. The annual State license fees herein prescribed shall be as follows:

1. Upon one (1) establishment the license fee shall be Five Hundred Dollars (\$500);

2. Upon each additional establishment in excess of one (1), but not to exceed two (2), the license fee shall be Ten Thousand Dollars (\$10,000);

3. Upon each additional establishment in excess of two (2), but not to exceed five (5), the license fee shall be Twenty-five Thousand Dollars (\$25,000);

4. Upon each additional establishment in excess of five (5), the license fee shall be Fifty Thousand Dollars (\$50,000).

The provisions of this Act shall be construed to apply to every person, agent, receiver, trustee, firm, corporation, copartnership, or association, either domestic or foreign, which is controlled or held with others by majority stock ownership, or ultimately controlled or directed by one (1) management or association of ultimate management.

(b) General Distributor's License. A General Distributor's License shall authorize the holder thereof to distribute or to sell beer to other General Distributors, Branch Distributors, Local Distributors, Retail Dealers, ultimate consumers and others only in the unbroken original packages in which it is received by him from the Manufacturer, General Distributor, or Branch Distributor and to serve free beer for consumption on the licensed premises. Annual State fee for a General Distributor's License shall be Two Hundred Dollars (\$200).

(c) Local Distributor's License. A Local Distributor's License shall authorize the holder thereof to serve free beer for consumption on the licensed premises, and to sell and distribute beer to Retail Dealers, ultimate consumers and others in the county of his residence only in the unbroken original packages in which it is received by him from the Manufacturer, General Distributor, or Branch Distributor; and such sales may be made to other Local Distributors licensed to sell beer only in the county of the selling Distributor's residence. Annual State fee for a Local Distributor's License shall be Fifty Dollars (\$50).

(d) Branch Distributor's License. The holder of a Manufacturer's or General Distributor's License, after obtaining the primary license in the county of his domicile or residence, may establish other places of business in any counties wherein the sale of beer is legal for the distribution of beer upon obtaining a Branch Distributor's License for each such place of business as herein provided, and such Branch Distributor may serve free beer for consumption on the licensed premises. Application for a renewal of a Branch Distributor's License may be made concurrently with the filing of the application for the renewal of a Manufacturer's or General Distributor's License, and all Branch Distributor Licenses shall terminate at the same time as the primary license of such licensee. The annual State fee for a Branch Distributor's License shall be Fifty Dollars (\$50); provided, however, that the fee for any license required to terminate in less than twelve (12) months from the date of issue shall be paid in advance at the rate of Four and 25/100 Dollars (\$4.25) for each month or fraction thereof for which the license is issued.

To obtain a Branch Distributor's License the applicant therefor shall make application in the same manner as provided in Section 6 of Article II of this Act.<sup>2</sup>

The renewal of a Branch Distributor's License shall be made in the manner as provided in Section 7 of Article II of this Act,<sup>3</sup> and application for renewal may be made concurrently with application for renewal of the primary license. The privileges of a Branch Distributor's License shall be the same as a General Distributor's License as provided in this Section.

If by local option election the holder of a Branch License shall be prevented from selling beer in the county of his residence and for such reason his primary license becomes void, nevertheless he shall not be denied the right of lawfully selling beer under any existing Branch License until the normal expiration thereof; it being further provided that any such Manufacturer or Distributor may, upon the expiration of any such Branch License, immediately thereafter obtain in any county wherein a Branch License has been held a primary Manufacturer's or Distributor's License without the necessity of qualifying as a resident of the county in which such primary license is sought.

(e) Retail Dealer's On-Premise License. A Retail Dealer's On-Premise License shall authorize the holder thereof to sell beer for consumption on or off the premises where sold, in or from any lawful container to the ultimate consumer, but not for resale. Annual State fee for a Retail Dealer's On-Premise License shall be Twenty-five Dollars (\$25).

(f) Retail Dealer's Off-Premise License. A Retail Dealer's Off-Premise License shall authorize the holder thereof to sell beer in a lawful container direct to the consumer, but not for resale and not to be opened or consumed on or near the premises where sold. Annual State fee for a Retail Dealer's Off-Premise License shall be Ten Dollars (\$10).

(g) No General Distributor's License, Local Distributor's License, or Branch Distributor's License shall be issued to any person who is the holder of a Package Store Permit, or a Wine Only Package Store Permit.

(h) The Commissioners Court in each county of this State shall have the power, except as herein otherwise provided as to Temporary Licenses, to levy and collect from every person licensed hereunder in said county a license fee equal to one-half (1/2) of the State fee; and any incorporated city or town wherein the license is issued shall have the power, except as to Temporary Licenses, to levy and collect a license fee not to exceed one-half (1/2) of the State fee, but no other fee or tax shall be levied by either. Nothing herein contained shall be construed as preventing the levying, assessing, and collecting of general ad valorem taxes on the property of any person licensed to sell beer. The Board or Administrator may cancel the license of any person upon finding that the licensee has not paid any fee levied by the city as provided in this subsection.

(i) The holder of a Manufacturer's License or a Distributor's License shall be authorized to maintain or engage necessary warehouses, for storage purposes only in areas where the sale of beer is lawful, from which deliveries may be made without such warehouses being licensed, except that importations of beer from outside the State shall not be made directly or indirectly to such unlicensed warehouses. Any warehouse or railway car in which sales orders for beer are taken or money therefor collected shall be deemed a separate place of business for which a license is required. The sale and delivery of beer from a truck of a licensed Manufacturer or Distributor to a licensed Retail

Dealer at the latter's place of business shall not constitute such truck to be a separate place of business. The Board shall govern by rule and regulation the transportation of such beer, the sale of which is to be consummated at the licensed Retailer's place of business.

(j) Temporary License. A Temporary License shall authorize the holder thereof to sell beer only for consumption on or off the premises where sold, in or from any lawful container to the ultimate consumer, and no such license shall authorize the sale of beer at any point outside the county where same is issued. Temporary Licenses shall be issued by the Board, Administrator, or any authorized representative of the Board. The Board shall adopt all necessary rules and regulations to effectuate the issuance and use of Temporary Licenses. A Temporary License shall not be issued to any person who does not also hold a Retail Dealer's On-Premise License or a Wine and Beer Retailer's Permit. A Temporary License shall be issued for a period of not more than four (4) days. Fees collected from the issuance of Temporary Licenses shall be retained by the Texas Liquor Control Board, and no fees shall be charged by any City or County for such licenses; and no refund shall be allowed upon the surrender or non-use of any such license. The Board, Administrator, or any authorized representative of the Board may issue such licenses only for the sale of beer at picnics, celebrations, or similar events, and may refuse to issue such licenses if there is reason to believe the issuance of the license would in any manner be detrimental to the public. The basic license or permit, under which the Temporary License was issued, may be suspended or cancelled for any violation of Section 19 or Section 19-B of this Article on the premises of a Temporary License. The fee for a Temporary License shall be Five Dollars (\$5). As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 13.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

<sup>2</sup> Article 667—6.

<sup>3</sup> Article 667—7.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 667—5. Application for license

A. Any person may file an application for a license as a Manufacturer, Distributor or Retail Dealer of beer in vacation or in termtime with the County Judge of the county in which the applicant desires to engage in such business. The County Judge shall refuse to approve the application for such license if he has reasonable grounds to believe and finds any of the following to be true:

##### B. If a Manufacturer:

(a) That he is not a law-abiding, taxpaying citizen of this State, over twenty-one (21) years of age; that he has not been a resident of the county wherein such license is sought for a period of more than one (1) year next preceding the filing of such application; and that he has been convicted of a felony within two (2) years immediately preceding the filing of such application.

(b) If a copartnership, that not all of the individuals have the same qualifications as provided in paragraph (1) above:

(c) If a corporation, that applicant is not organized and chartered under and has not complied with all corporation laws of this State applicable to such corporation, that the principal place of business is not in the county where such license is sought, and the president or manager has not made an affidavit that he possesses none of the disqualifications provided in paragraph (1) above.

## C. If a Distributor or Retailer:

- (a) That the applicant is under twenty-one (21) years of age; or
- (b) That the applicant is indebted to the State for any taxes, fees, or penalties imposed by this Act<sup>1</sup> or by any rule or regulation of the Board; or
- (c) That the place or manner in which the applicant for a Retail Dealer's License may conduct his business is of such nature which based on the general welfare, health, peace, morals, and safety of the people, and on the public sense of decency, warrants a refusal of the license; or
- (d) That the applicant is in the habit of using alcoholic beverages to excess, or is physically or mentally incompetent; or
- (e) That the applicant has not been a resident of the county where such license is sought for a period of more than one (1) year immediately preceding the filing of his application, except as provided in subsections F and G of this Section; or
- (f) That the applicant is not a citizen of the United States or has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application, provided, however, that this paragraph (f) shall not apply to any person who has been issued a license or a renewal thereof on or before September 1, 1948; or
- (g) That the applicant has been finally convicted of a felony during the two (2) years next preceding the filing of his application; or
- (h) That the applicant is not of good moral character, that his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad.

D. The County Judge may refuse to issue a Distributor's or Retailer's License to any applicant if he has reasonable grounds to believe and finds any of the following to be true:

- (a) That the applicant has been finally convicted in a court of competent jurisdiction for the violation of any provision of this Act during the two (2) years next preceding the filing of his application; or
- (b) That two (2) years has not elapsed since the termination, by pardon or otherwise, of any sentence imposed upon conviction for a felony; or
- (c) That the applicant has violated or caused to be violated any provision of this Act or any rule or regulation of the Board for which a suspension has not already been imposed, during the twelve-month period next preceding the date of his application; or
- (d) That the applicant has failed to answer or has falsely answered or has incorrectly answered any of the questions in his original or renewal application; or
- (e) That the applicant for a Retail Dealer's License does not have available an adequate building at the address for which the license is sought; or
- (f) That the applicant has had any interest in any license or permit which license or permit has been cancelled or revoked within the twelve (12) months next preceding the date of the application; or
- (g) That the applicant is residentially domiciled with any person in whose name any license or permit has been cancelled or revoked within one (1) year next preceding the date of the application for a license; or
- (h) That the applicant for a Manufacturer's or Distributor's License owns or has an interest in any premises covered by a Retail Beer License; or that any person owning or having any interest in a Retail Beer License owns or has an interest in the premises sought to be licensed under a Manufacturer's or Distributor's License; or

(i) That the applicant has failed or refused to furnish a true copy of his application to the Texas Liquor Control Board District Office in the district in which the premise sought to be covered by a license is located; or

(j) That the applicant has any financial interest in any establishment authorized to sell distilled spirits, except as provided in Section 23 (a) (5) and Section 17 (1) of Article I of the Texas Liquor Control Act<sup>2</sup>; or

(k) That a person engaged in the business of selling distilled spirits has any financial interest in the business to be conducted under the license sought by the applicant, except as provided in Section 23 (a) (5) and Section 17 (1) of Article I of the Texas Liquor Control Act; or

(l) That the applicant is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling distilled spirits, except as provided in Section 23 (a) (5) and Section 17 (1) of Article I of the Texas Liquor Control Act; or

(m) That the applicant for a Retail Dealer's License has any real interest in the business of a Manufacturer or Distributor of beer or any real interest in the premises in which such Manufacturer or Distributor conducts his or its business; or

(n) That the premises for which the license is sought, where beer is to be sold for consumption on the premises, does not have running water, such being available, or does not have separate toilets for males and females, properly marked and identified, on the premises sought to be covered by the license; or

(o) That the place, building, or premises for which the license is sought has theretofore been used for selling alcoholic beverages in violation of the law at any time during the six (6) months immediately preceding the date of the application, or has during that time been a place operated, used, or frequented in any manner or for any purpose contrary to the provisions of this Act, or, so operated, used, or frequented for any purpose or in any manner lewd, immoral, or offensive to public decency; or

(p) That the premises sought to be licensed under a Retail Dealer's License are owned in part by a Manufacturer or Distributor.

E. If the County Judge approves the application for a license as a Retail Dealer of beer, then the Board or Administrator may refuse to issue a Retailer's License to any applicant for any one (1) or more of the reasons which would have been legal ground for the County Judge to refuse to approve the application for such a license.

F. Where the word "applicant" is used in subsections A, B, C, and D of this Section, it shall, in case of a partnership, include each individual of such partnership, except that only one (1) partner need be a resident of the county wherein the partnership seeks to be licensed as a General Distributor.

G. If the applicant is a corporation, the president or manager shall make an affidavit that he possesses none of the disqualifications pertaining to the type of license applied for as set forth in subsections B, C and D of this Section, and in addition thereto shall make an affidavit that the applicant is organized and chartered under and has complied with all laws of this State applicable to such corporation, and has a local manager in such county possessing none of the disqualifications pertaining to the type of license sought.

H. The Board or Administrator may, upon application for renewal of a Retail Dealer's License, without a hearing, refuse to issue a license to any person under the restrictions of this Section, as well as under any

other pertinent provisions of this Act, and require such applicant to make an original application.

I. The restrictions as to residence in the county in which a Retail Dealer's License is applied for shall not be applicable to any Retail Dealer who may have qualified by law and obtained a Retail Dealer's License in the county of his residence, when such Retail Dealer also seeks to obtain a Retail Dealer's License in any other county, and said license shall not be renewable more than once unless the license held by applicant in the "county of his residence" is renewed. No license held in suspense shall qualify the holder thereof for a license in any county other than that of his residence.

Any person who is the holder of a Wine and Beer Retailer's Permit or a Retail Dealer's On-Premise License, or a Retail Dealer's Off-Premise License which will become void by a local option election shall be qualified to make application for a Wine and Beer Retailer's Permit or a Retail Dealer's On-Premise License or a Retail Dealer's Off-Premise License in any other county, provided such application is made and received by the Board or Administrator in Austin, Texas, prior to the effective date of such election. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 14.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

<sup>2</sup> Articles 666—23(a) (5) and 666—17(1).

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 667—5A. Repealed. Acts 1949, 51st Leg., p. 1011, ch. 543, § 15.**  
 Eff. 90 days after July 6, 1949, date of adjournment

Article derived from Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. II, § 5-A, added Acts 1943, 48th Leg., p. 509, ch. 325, § 19. It related to restrictions as to residence.

Relaxation of residence requirements when retail dealer has license in county of residence, see art. 667—5.

**Art. 667—17. Blind and barriers**

It shall be unlawful for any person to install or maintain any barrier or blind in the opening or doors of any retail establishment, nor shall any windows of said establishment be painted in such a way as to obstruct the view from the general public at or above a height of fifty-four (54) inches above the ground or sidewalk outside and beneath such window. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 18.

Effective 90 days after July 6, 1949, date of adjournment.

**Art. 667—19. Cancellation or suspension of license**

The Board or Administrator may cancel or suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any license or any renewal of such license, upon finding that the licensee has:

A. If a Retail Dealer's Off-Premise License or Retail Dealer's On-Premise License:

1. Knowingly sold, served, or delivered beer to a person under the age of twenty-one (21) years; or

2. Sold, served, or delivered beer to a person showing evidence of intoxication; or

3. Sold, served, or delivered beer to a person during hours when such sale was forbidden by law; or

4. Opened an original package containing beer having a tax stamp thereon without then and there mutilating or otherwise defacing such stamp; or

5. Made or offered to enter into an agreement, condition, or system, the effect of which would amount to the sale or possession of alcoholic beverages on consignment; or

6. Possessed or permitted to be possessed by his agents or servants or employees, on premises covered by his license or on premises adjacent thereto and directly or indirectly under his control, any alcoholic beverage that he is not authorized by law to sell at the place of business covered by the license sought to be cancelled by the Board or Administrator, except as provided in Section 23(a) (5) of Article I<sup>1</sup> or Section 17 (1) of Article I of the Texas Liquor Control Act<sup>2</sup>; or

6a. Does not have running water, such being available, or does not have separate toilets for males and females properly marked and identified, on the licensed premises; or

7. Permitted on the licensed premises any conduct by any person whatsoever that is lewd, immoral, or offensive to public decency; or

8. Employed any person under the age of eighteen (18) years to sell, handle, or dispense or to assist in selling, handling, or dispensing beer in any establishment where beer is sold at retail to be consumed on the premises where sold; or

9. Conspired with any person to violate any of the provisions of Section 24 of this Article<sup>3</sup>, or accepted the benefits of any act prohibited by such Section; or

10. Refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the Board or any peace officer; or

11. Contributed money or other thing of value toward the campaign expenses of any candidate for office; or

12. Permitted his license to be used or displayed in the operation of a business conducted for the benefit of any person not authorized by law to have an interest in said license; or

13. Maintained blinds or barriers at his place of business in violation of the law; or

14. Is financially interested in any place of business engaged in the selling of distilled spirits or has permitted any other person who has a financial interest in any place of business engaged in the sale of distilled spirits to be interested financially in the business authorized by his license, except as provided in Section 23 (a) (5) and Section 17 (1) of Article I of this Act; or

15. Is residentially domiciled with or so related to any person engaged in the sale of distilled spirits, except as provided in Section 23 (a) (5) or Section 17 (1) of Article I of this Act, that there is a community of interest which the Board or Administrator may deem inimical to the purposes of this Act, or is so related to any person in whose name any license has been cancelled or revoked within the twelve (12) months next preceding any date fixed by the Board or Administrator for hearing upon a motion to cancel or revoke the existing license; or

16. Violated any provision of this Act or any rule or regulation of the Board at any time during the existence of the license sought to be cancelled or within the next preceding license period of any license held by the licensee; or

17. Consumed or permitted the consumption of alcoholic beverages on the licensed premises during any time when such consumption is prohibited as provided in Section 4 (c) of Article I of the Texas Liquor Control Act<sup>4</sup>; or

18. Purchased beer for the purpose of resale from any person other than the holder of a Distributor's, Manufacturer's, or Branch Distributor's License; or

19. Purchased, bartered, borrowed, loaned, exchanged, or acquired any alcoholic beverage for the purpose of sale from another Retail Dealer of alcoholic beverage; or

20. Owned any interest in the business of any Distributor of beer, or any interest of any kind in the premises in which such Distributor conducts his or its business; or

21. Purchased, sold, offered for sale, distributed, delivered, consumed or permitted to be consumed on the licensed premises any alcoholic beverages during any period when his license was under suspension; or

22. Has made any false statement or misrepresentation in his original application or any renewal application; or

23. Purchased, possessed, or stored, or sold or offered for sale any beer in or from an original package bearing a brand or trade name of a Manufacturer other than the brand or trade name of the Manufacturer shown on the container; or

24. Delivered or consumed or permitted the consumption of any alcoholic beverage on the licensed premises on the day of any general primary election or general election held in this State between the hours of 7:00 A. M. and 8:00 P. M.; or

25. Is in the habit of using alcoholic beverages to excess, or is mentally incompetent or physically unable to carry on the management of his establishment; or

26. Has been finally convicted of a felony during the period he is the holder of any license or any renewal thereof; or

27. Imported beer into this State, except as provided in Section 3-b, Article II of the Act; or

28. Occupied a premise in which any Manufacturer, General Distributor, Branch Distributor, or Local Distributor has any interest of any kind; or

29. If a Retailer, knowingly allowed or permitted a person who had an interest in a permit or license which was cancelled for cause within one (1) year from the date of such cancellation, to sell or handle or to assist in selling or handling alcoholic beverages on his licensed premises; or

30. Has been finally convicted for the violation of any penal provisions of this Act; provided, however, that no license authorizing the retail sale of beer in a hotel shall be cancelled for the causes specified in the foregoing paragraphs 6, 14, and 15 in those cases where there is a place of business authorized to sell distilled spirits in unbroken packages on premises of the hotel other than that part of such premises covered by the Retail Beer Dealer's License.

31. The causes specified in the foregoing paragraphs 1 through 29 shall also mean and include each member of a partnership or association, and the president, manager or owner of the majority of the corporate stock of a corporation, except as provided in Section 23 (a) (5) and Section 17 (1) of Article I of the Texas Liquor Control Act.

The causes specified in the foregoing paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 17, 18, 21, 24, and 29 shall also mean and include any agent, servant or employee of the licensee.

B. If a General Distributor's License, Local Distributor's License, or Branch Distributor's License:

1. Violated any of the provisions of Section 24 of this Article; or

2. Failed to comply with all lawful requirements of the Board as to keeping of records and making of reports; or

3. Failed to pay any taxes due to the State as provided in this Article on any beer sold, stored, or transported by the licensee; or



4. Refused to permit or interfered with any inspection of his licensed premises or vehicles or books and records by any authorized representative of the Board; or

5. Consummated any sales of beer outside the county or counties in which his license authorized him to sell; or

6. Violated any provision of this Act or any rule or regulation of the Board at any time during the existence of the license sought to be cancelled or within the preceding license period of any license held by the licensee; or

7. Purchased, sold, offered for sale, distributed, or delivered any beer during any period when his license was under suspension; or

8. Permitted his license to be used in the operation of a business conducted for the benefit of any person not authorized by law to have an interest in said business; or

9. Has made any false or misleading representation or statement in his original application or any renewal application; or

10. Is in the habit of using alcoholic beverages to excess, or is mentally incompetent or physically unable to carry on the management of his establishment; or

11. Misrepresented to a Retailer or the public any beer sold by him; or

12. Employed any person under the age of eighteen (18) years to sell, deliver or distribute, or to assist in selling, delivering or distributing any beer; or

13. Knowingly sold or delivered beer to any person under the age of twenty-one (21) years; or

14. Contributed money or other thing of value toward the campaign expenses of any candidate for public office; or

15. Purchased, possessed, stored, sold, or offered for sale any beer in an original package bearing a brand or trade name of a Manufacturer other than the brand name or trade name of the Manufacturer shown on the container; or

16. Has been finally convicted of a felony during the period he is the holder of any license or any renewal thereof; or

17. Has received, stored, or possessed unstamped beer, except military beer; or

18. Has been finally convicted for the violation of any penal provisions of this Act.

19. The causes specified in the foregoing paragraphs 1 through 18 shall also mean and include each member of a partnership or association, and the president, manager, or owner of the majority of the corporate stock of a corporation.

The causes specified in the foregoing paragraphs 4, 5, 7, 11, 12, 13, 15, and 17 shall also mean and include any agent, servant, or employee of the licensee.

**C. If a Manufacturer:**

The Board or Administrator shall have the power and authority to suspend, after notice and hearing, the license of any Manufacturer to sell beer in this State when such licensee has violated any provision of this Act applying to Manufacturers or any rule or regulation of the Board applying to Manufacturers, until said licensee obeys all lawful orders of the Board or Administrator requiring such licensee to cease and desist from such violations.

D. Any act of omission or commission enumerated herein as cause for the cancellation or suspension of any type of license shall also be a violation of this Act and subject to the penalties provided in Section

26 of this Article <sup>5</sup>, provided, however, that the penalty for the making of any false or untrue statements in any application for a license or in any statement, report, or other instrument to be filed with the Board, and which is required to be sworn to, shall be as is provided in Section 17(a) (2) of Article I of this Act. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 16.

<sup>1</sup> Article 666—23(a) (5).

<sup>2</sup> Article 666—17(1).

<sup>3</sup> Article 667—24.

<sup>4</sup> Article 666—4(c).

<sup>5</sup> Article 667—26.

Effective 90 days after July 6, 1949, date of adjournment.

### **Art. 667—19B. Lewd or immoral conduct; conduct offensive to public decency**

For the purposes contemplated by this Act,<sup>1</sup> conduct by any person at a place of business where the sale of beer at retail is authorized that is lewd, immoral, or offensive to public decency is hereby declared to include but not be limited to the following prohibited acts; and it shall be unlawful for any person engaged in the sale of beer at retail, or any agent, servant, or employee of said person, to engage in or to permit such conduct on the premises of the Retailer:

(a) The use of or permitting the use of loud and vociferous or obscene, vulgar, or indecent or abusive language.

(b) The exposure of person or permitting any person to expose his person.

(c) Rudely displaying or permitting any person to rudely display a pistol or any other deadly weapon in a manner calculated to disturb the inhabitants of such place.

(d) Solicitation of any person for coins to operate musical instruments or other devices.

(e) Solicitation of any person to buy drinks or beverages for consumption by the Retailer or his employees.

(f) Becoming intoxicated on licensed premises or permitting any intoxicated person to remain on such premises.

(g) Permitting entertainment, performances, shows, or acts that are lewd or vulgar.

(h) Permitting solicitations of persons for immoral or sexual purposes or relations.

(i) Failing or refusing to comply with or failure or refusal to maintain the retail premises in accordance with the health laws of this State or any sanitary laws or with sanitary or health provisions of any city ordinance. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 17.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after July 6, 1949, date of adjournment.

### **Art. 667—20. Hearings**

The Board or Administrator shall have the power and authority upon its own motion, and it is hereby made its duty upon petition of the County Judge, County Attorney, or Sheriff of the county, or the Mayor or Chief of Police of the incorporated city or town wherein may be located the place of business of the licensee complained of in such petition, to fix a date for hearing, and give notice thereof to the licensee complained of for the purpose of determining whether or not the license of such licensee is to be cancelled by the Board or Administrator, and

to notify such licensee that he may appear to show cause why such license should not be cancelled. The Board or Administrator is authorized and empowered to cancel the license of any licensee upon determining after hearing that the holder thereof has given cause for such cancellation in any manner enumerated in Section 19<sup>1</sup> or Section 19-B of this Article.<sup>2</sup> As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 18.

<sup>1</sup> Article 667—19.

<sup>2</sup> Article 667—19B.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 667—23. Tax on beer

There is hereby levied and assessed a tax at the rate of One Dollar and twenty-four cents (\$1.24) per barrel on the first sale of all beer manufactured in Texas and on the importation of all beer imported into this State. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 22.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 667—23<sup>1</sup>/<sub>4</sub>. Tax levied only on first sale; duty of paying; exemptions; importation of beer; bonds; statements and remittances; prima facie evidence

(a) The tax levied in Section 23 of Article II of the Texas Liquor Control Act<sup>1</sup> is levied only on its first sale in Texas or only on its importation into Texas, whichever shall first occur.

(b) On beer imported into this State the duty of paying the tax shall rest primarily upon the Importer, and said tax shall become due and payable on the fifteenth day of the month following that month in which said beer was imported into this State.

(c) On beer manufactured in this State the duty of paying the tax shall rest primarily upon the Manufacturer, and said tax shall become due and payable on the fifteenth day of the month following that month in which the first sale of said beer was made in this State.

(d) It is not intended that the tax levied in Section 23 of Article II of the Texas Liquor Control Act shall be collected on beer shipped out of this State for consumption outside this State, or on beer shipped to any installation of the National Military Establishment, wherein the State of Texas has ceded police jurisdiction, for consumption by military personnel within said installation, and the Board shall provide forms on which Distributors and Manufacturers may claim and obtain exemption from the tax on such beer. If any Distributor or Manufacturer has paid the tax on any beer and thereafter said beer is shipped out of this State, for consumption outside this State, or is shipped into any installation of the National Military Establishment as referred to above, for consumption by military personnel therein, a claim for refund may be made upon payment of a fee of Five Dollars (\$5) to the Board at the time and in the manner prescribed by the Board or Administrator. So much of any funds derived hereunder as may be necessary, not to exceed two per cent (2%) thereof, is hereby appropriated for such purpose. The Board may promulgate rules and regulations generally for the enforcement of this provision.

(e) It shall be unlawful for any Importer, unless he be the holder of an Importer's Carrier's License, to import beer into this State except by steam, electric and motor power railway carriers, and common carrier motor carriers operating under certificates of convenience and necessity issued by the Railroad Commission of Texas, or such certificates

issued by the Interstate Commerce Commission. Any such carrier shall be the holder of a Carrier's Permit provided for in Section 15 (11), Article I of the Act,<sup>2</sup> and shall comply with all the requirements thereof as in the transportation of liquor. It shall be unlawful for any carrier enumerated herein to transport beer into this State except military beer consigned to military installations, unless the same shall be consigned and delivered to an Importer.

(f) As used in Article II,<sup>3</sup> an "Importer" is a person who imports beer into this State in quantities in excess of two hundred and eighty-eight (288) fluid ounces in any one (1) day. It shall be unlawful for any Importer to import beer into this State unless and until he shall first obtain from the Board an Importer's License, the annual fee for which shall be Five Dollars (\$5). The application for such license shall contain such information as the Board may require. No Importer's License shall be granted to any person who is not already the holder of a Manufacturer's License or a Distributor's License.

(g) No Importer shall import beer into this State by any means of transportation other than those set out in paragraph (e) hereof unless he shall first obtain from the Board an Importer's Carrier's License, which license shall entitle him to import beer into this State in vehicles owned or leased in good faith by him. The annual fee for such license shall be Five Dollars (\$5). The application for such license shall contain such information as to description of the vehicles and such other information as the Board may require. All vehicles used under such licenses shall have painted or printed thereon such designation as the Board may require. It shall be unlawful for any Importer to import beer into this State in any vehicle not fully described in his application, except as is permitted in paragraph (e) hereof. No Importer's Carrier's License shall be issued to any person who is not already the holder of an Importer's License.

(h) The Board is hereby authorized and empowered to require of all Manufacturers of beer in this State, and of all Manufacturers of beer imported into this State, and of all Importers and Distributors, such information as to purchases, sales and shipments as will enable the Board to collect the full amount of the tax due the State, and it shall be unlawful for any such Manufacturer, Importer or Distributor of beer to fail or refuse to give the Board such information. The Board shall have the power to seize and withhold from sale any beer, the Manufacturer, Importer, or Distributor of which fails or refuses to give to the Board any information which the Board may require under this provision, or fails or refuses to permit the Board to make investigation of pertinent records, whether they be located within or without this State.

(i) Any person in possession of beer on which the tax is delinquent shall be held in violation of this Article and liable for the taxes herein provided and for the penalties for such violations.

(j) The Board shall require of Manufacturers of beer in Texas, and of Importers of beer into Texas, a bond or bonds executed by the Manufacturer or Importer as principal, and a surety company, duly qualified and doing business in this State, as surety, and said bond or bonds shall be made payable to the order of the State of Texas and conditioned as the Board may require and approved by the Attorney General of Texas as to form. Said bond or bonds shall be in such amount as will adequately protect the State against the anticipated tax liability of the principal during any six (6) weeks period.

(k) Such sworn statements of taxes due as may be required by the Board, and remittances therefor made payable to the State Treasurer,

shall be forwarded to the Board each month not later than the due date set out herein. All such remittances shall be turned over by the Board to the State Treasurer, and after the allocation of funds to defray administrative expenses of the Board as provided in the current Departmental Appropriation Act, all remaining funds shall be deposited in the State Treasury as set out in paragraphs (a) and (b) of Section 23 1/2 of Article II of the Texas Liquor Control Act.<sup>4</sup>

(l) In any suit brought to enforce the collection of any tax due on beer manufactured in or imported into Texas, a certificate by the Board or Administrator showing the delinquency shall be prima-facie evidence of the levy of the tax, or the delinquency of the amount of tax and penalty set forth therein and of compliance by the Board with all provisions of this Act in relation to the computation and levy of the tax.

(m) This Section shall be effective on and after October 1, 1949, and on and after that date the purchase, affixing or mutilation of beer tax stamps shall no longer be required in Texas, and all requirements as to beer tax stamps in the Texas Liquor Control Act as amended<sup>5</sup> heretofore and herein are hereby specifically repealed. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 2, § 23 1/4, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 21.

<sup>1</sup> Article 667—23.

<sup>2</sup> Article 666—15(11).

<sup>3</sup> Article 667—1 et seq.

<sup>4</sup> Article 667—23 1/2.

<sup>5</sup> Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 667—23a. Additional tax

In addition to all other taxes, there is hereby levied and assessed a tax at the rate of ten per cent (10%) of One Dollar and twenty-four cents (\$1.24) per barrel on the first sale of all beer manufactured in Texas and on the importation of all beer imported into this State.

The tax levied herein is levied only on its first sale in Texas or only on its importation into Texas, whichever shall first occur.

On beer imported into this State the duty of paying the tax shall rest primarily upon the importer, and said tax shall become due and payable on the fifteenth day of the month following that month in which said beer was imported into this State.

On beer manufactured in this State the duty of paying the tax shall rest primarily upon the manufacturer, and said tax shall become due and payable on the fifteenth day of the month following that month in which the first sale of said beer was made in this State.

This tax is subject to all the terms, conditions, penalties, bonds, exemptions, and provisions for refunds as is now provided in the Texas Liquor Control Act, as amended, for the tax therein levied on the sale and importation of beer. The liability for such tax is on and such tax shall be paid by the same parties and in the same manner as is now provided by the Texas Liquor Control Act for the payment of the tax on the sale and importation of beer. This tax is levied on such sales and importations made prior to September 1, 1951, and not thereafter. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 23A, added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XVI, § 1.

Section 2 of art. XVI of the act of 1950 read as follows: "Section 1 of this Article shall become effective on the first day of

the first month after the effective date [Feb. 28, 1950] of this Act."

**Art. 667—24a. Outdoor advertising**

1. The term "outdoor advertising" as used herein shall mean any sign bearing any words, marks, description or other device and used to advertise the alcoholic beverage business of any person engaged in the manufacture, sale or distribution of alcoholic beverages, or in the advertisement of any beverage containing alcohol in excess of one-half of one per cent ( $1/2$  of 1% by volume, when such sign is displayed anywhere outside the walls or enclosure of any building or structure where there exists a license or permit to sell alcoholic beverages. The term "outdoor advertising" shall not be inclusive of any advertising appearing on radio or television, or in any public vehicular conveyances for hire, or in a newspaper, magazine or other literary publication published periodically. Any such sign erected inside a building and within five (5) feet of any exterior wall of such building facing a street or highway and so placed that it may be observed by a person of ordinary vision from outside the building, shall be deemed outdoor advertising. For the purposes of this Section the word "sign," as applied to its use by a Retailer, shall not include any identifying label affixed to any container as authorized by law, nor to any card or certificate of membership in any association or organization, provided such card or certificate is not larger than eighty (80) square inches.

The word "billboard" as used herein shall mean a structure directly attached to the land, or to any house or building, and having one (1) or more spaces used for displaying thereon a sign or advertisement of the alcoholic beverage business of any person engaged in the manufacture, sale or distribution of alcoholic beverages, or for the advertisement of any beverage containing alcohol in excess of one-half of one per cent ( $1/2$  of 1%) by volume, whether or not such structure or sign be illuminated by artificial means. The term "billboard" shall not be inclusive of any wall or other part of any structure used as a building, fence, screen, front or barrier.

The term "electric sign" as used herein shall mean a structure or device, other than an illuminated billboard, by means of which artificial light created through the application of electricity is utilized for the advertisement of the alcoholic beverage business by any person engaged in the manufacture, sale or distribution of alcoholic beverages, or for the advertisement of any beverage containing alcohol in excess of one-half of one per cent ( $1/2$  of 1%) by volume.

2. All outdoor advertising as herein defined is hereby prohibited within the State of Texas except as herein expressly provided:

(a) The use of billboards or electric signs as herein defined having a surface of not less than one hundred and eighty (180) square feet is hereby authorized unless located or to be located in a manner contrary to the limitations imposed by this Act.<sup>1</sup>

(b) The holders of Retailer's Licenses or Permits are authorized to erect or maintain at their respective places of business one (1) sign only containing the words:

If a Beer Retailer, the word "Beer."

If a Wine and Beer Retailer, the word or words "Beer," "Beer and Wine," or "Beer, Wine and Ale."

If the holder of a Package Store Permit, the word or words "Package Store," "Liquors," or "Wines and Liquors," and if also the holder of a Retail Dealer's Off-Premise License, the word or words "Package Store" or "Wines, Liquors and Beer."

If the holder of a Wine Only Package Store Permit, the word "Wine" or "Wines," and if also the holder of a Retail Dealer's Off-Premise License, the words "Wines and Beer," or "Wine and Beer."

Such sign may be placed within or without the place of business so as to be visible to the general public. No such sign shall contain letters of greater height than twelve (12) inches, and no such sign shall contain any wording, insignia or device representative of the brand or name of any alcoholic beverage or the Manufacturer of any alcoholic beverage. The Board or Administrator is hereby authorized to expand this provision to the extent of permitting a licensee to erect or maintain one (1) such sign at each entrance or side of a building occupied by a licensee and facing more than one street or highway.

(c) The use of billboards, electric display signs or other signs to designate the firm name or business of any holder of a permit or license authorizing the manufacture, rectification, bottling or wholesaling of alcoholic beverages, when displayed at the place of business of such person is hereby authorized.

(d) The use of alcoholic beverages or printed or lithographed material advertising alcoholic beverages inside a premise where there exists a permit or license to sell alcoholic beverages, when used as a part of a display, is hereby authorized, provided such alcoholic beverages or advertising material so used may not be placed within six (6) inches of any window or opening facing upon a street, alley or highway, and provided further that the term "advertising material" as used in this Section shall not be construed to mean or include any card or certificate of membership in any association or organization, if such card or certificate is not larger than eighty (80) square inches.

(e) The Board shall have the power and authority, and it is hereby made its duty, to adopt rules and regulations permitting and regulating the use of business cards, menu cards, stationery, and service vehicles and equipment and delivery vehicles and equipment bearing advertisement of alcoholic beverages, and permitting and regulating the use of insignia advertising beer by brand name on caps, regalia or uniforms worn by employees of a Manufacturer or Distributor or by participants in any game, sport or athletic contest or revue when said participants are sponsored by a Manufacturer or Distributor.

3. It shall be unlawful for any person to erect or maintain any billboard or electric sign in violation of any ordinance of an incorporated city or town.

It shall be unlawful for any person to erect or maintain any billboard or electric sign within an area or zone where the sale of alcoholic beverages is prohibited by law.

4. It shall be unlawful for any person to erect or maintain any billboard or electric sign within two hundred (200) feet of any place where there exists a permit or license to sell the advertised beverage at retail without first securing from the Texas Liquor Control Board a permit to erect or maintain such billboard or electric sign, provided no such permit shall be required for billboards or electric signs having a surface of one hundred and eighty (180) square feet, or more, if not located within two hundred (200) feet of any place where there exists a license to sell the advertised beverage at retail. Application for any exception to this provision shall be addressed to the Board or Administrator upon such form as may be prescribed and containing such information as may be deemed necessary by the Board or Administrator. The application shall be made under oath and shall state in addition to such other information as may be required by the Board, that the erection or maintenance of any such billboard or electric sign will not serve to advertise or direct patronage to any particular place of business licensed to sell any alcoholic beverage at retail.

The Board or Administrator shall refuse to issue a permit for the erection or maintenance of any billboard or electric sign if it finds any statement in the application therefor to be false; and the Board or Administrator shall grant the permit for erection or maintenance of any such billboard or electric sign if it finds all statements in the application therefor to be true, and if it finds that the erection or maintenance thereof would not be contrary to this Act or any lawful rule or regulation of the Board.

All billboards and electric signs authorized by this Act shall be subject to all applicable provisions of Section 24, Article II, of the Texas Liquor Control Act.<sup>2</sup>

It shall be unlawful for any person to erect, maintain or display any outdoor advertising, billboard, or electric sign not conforming in all respects to the provisions of this Act; and any billboard or electric sign displayed contrary thereto is hereby declared illegal equipment and subject to seizure and forfeiture as provided for such action in respect to illicit beverages and other illegal equipment under the provisions of this Act.

The owner of any outdoor advertising, the erection, maintenance or display of which would be in violation of the provisions of this Section, shall be responsible for the removal thereof from public view immediately, and failure so to remove shall be a violation of this Act. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 20.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

<sup>2</sup> Article 667—24.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 667—28. Samples and labels

It shall be unlawful for any person to ship or cause to be shipped into this State, or to import into this State, or to manufacture and then offer for sale within this State, or to distribute, sell, or store within the State any beer, ale or malt liquor unless and until a sample of such beer, ale, or malt liquor, or a sample of the same type and quality of beer, ale, and malt liquor, has been submitted to the Texas Liquor Control Board for the purpose of analysis, and has been found by the Texas Liquor Control Board or its representatives to be in compliance with all rules and regulations of the Board relating to quality, purity, and standards of measure.

It shall also be unlawful for any person to import any beer, ale, or malt liquor into this State, or to manufacture and then offer for sale within this State, or to distribute, sell, or store within this State any beer, ale, or malt liquors unless and until the label thereof has been submitted to the Texas Liquor Control Board or its authorized representatives and such label has been approved by the Texas Liquor Control Board or its authorized representatives as being in compliance with all rules or regulations of the Texas Liquor Control Board or any provision of the Act relating to the labeling of beer, ale, or malt liquor. Any beer, ale, or malt liquor so imported into this State, or manufactured and then offered for sale within this State, in violation of this Section shall be an illicit beverage. Provided, however, that all labels bearing the same wording or design as labels attached to any beer manufactured in or imported into this State during the period between January 1, 1949, and June 1, 1949, are hereby approved, and no further approval shall be needed by the Manufacturers or Distributors of such brands of beer unless said Manufacturers or Distributors desire to change the wording



or design of such labels. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 28, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 21.

Effective 90 days after July 6, 1949, date of adjournment.

#### **Art. 667—29. Transportation, consignment to licensees only**

It shall be unlawful for a common carrier or any person to transport beer into this State, except military beer consigned to military installations, unless the same shall be consigned and delivered to the holder of a Manufacturer's, General Distributor's, Branch Distributor's, or Local Distributor's License, except as provided in Section 3-b of Article II.<sup>1</sup> Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 29, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 21.

<sup>1</sup> Article 667—3b.

Effective 90 days after July 6, 1949, date of adjournment.

#### **Art. 667—30. Security for costs**

No security for cost shall ever be required of any representative of the Texas Liquor Control Board in any matter wherein said representative protests the issuance of a license or permit in any hearing conducted by the County Judge to determine whether or not a license or permit shall be issued. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 30, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 21.

Effective 90 days after July 6, 1949, date of adjournment.

#### **Art. 667—31. Conduct of business limited to licensed premises**

It shall be unlawful for any person licensed to sell beer at retail other than a Manufacturer or Distributor to use or display a license, or to exercise any privilege granted by a license except at the place, address, premise, or location for which the license is granted, except that deliveries of beer and collections therefor may be made in areas where the sale thereof is not prohibited under the local option provisions of this Act under such license off the licensed premises in the county where licensed on bona fide order placed in person by the customer at the licensed premises or by mail or telephone to the licensed premises. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 21, added Acts 1949, 51st Leg., p. 1011, ch. 543, § 21.

Effective 90 days after July 6, 1949, date of adjournment.

## TITLE 12—PUBLIC HEALTH

### CHAPTER TWO—UNWHOLESOME FOOD, DRINK OR MEDICINE

Art.

719e. Sale of horse meat for human consumption [New].

#### Art. 719d. Sale of meat or meat products

Section 18 of this article is repealed, to the extent of conflict, by Acts 1949, 50th Leg., ch. 45, § 7. See Article 791e, § 7.

#### Art. 719e. Sale of horse meat for human consumption

##### Horse meat defined

Section 1. By the term "horse meat" as used in this Act is meant the meat or flesh of any animal of the equine genus.

##### Sale or possession for sale unlawful

Sec. 2. It shall be unlawful for any person to sell, offer or exhibit for sale, or have in his possession with intent to sell as food for human consumption, any quantity of horse meat.

##### Transfer to person intending to sell

Sec. 3. It shall be unlawful for any person to transfer the possession of any horse meat to any other person when the person so transferring knows, or in the exercise of a reasonable discretion should have known, that the person receiving the horse meat intends to sell it, offer it for sale, exhibit it for sale or keep it in his possession with intent to sell it as food for human consumption.

##### Prima facie evidence of violation

Sec. 4. Any of the following facts shall be prima facie evidence that horse meat was intended to be sold in violation of this Act as food for human consumption:

1. The presence of horse meat in any quantity in any retail store where the meat of cattle, sheep, swine, or goat is being exhibited or kept for sale, unless such horse meat be in a package or container not exceeding five (5) pounds in weight and plainly marked "horse meat."

2. The presence of horse meat in any quantity within the establishment, warehouse, meat locker, meat cooler or other place of storage or handling of any wholesaler of the meat of cattle, sheep, swine, or goat, unless such horse meat be in a container as described above.

3. The presence of horse meat mixed and commingled with the meat of cattle, sheep, swine, or goat in hamburger, sausage or other processed meat products.

4. The transportation of horsemeat between the hours of 10:00 P.M. and 4:00 A.M. unless said horsemeat is in individual packages or containers not to exceed five (5) pounds in weight each and plainly marked "horsemeat" for animal consumption. As amended Acts 1949, 51st Leg., p. 1055, ch. 545, § 1.

5. The presence of horse meat in, or the delivery or attempted delivery of horse meat to any restaurant or cafe.

6. The presence of horse meat in or the delivery or attempted delivery of horse meat to any establishment preparing, canning, or process-

ing meat food products from the meat of cattle, sheep, swine, or goats, such as, but not limited to, chili con carne, beef hash, and beef stew.

#### City ordinances

Sec. 5. Nothing contained in this Act shall affect any provision of any city ordinance regulating the sale or possession of horse meat and the licensing of dealers thereunder and the only provisions of such ordinances that shall be affected and set aside by the passage of this Act, shall be such provisions as are directly in conflict herewith.

#### Punishment—Injunction

Sec. 6. Any person violating any of the provisions of this Act, shall be fined not to exceed One Thousand Dollars (\$1,000) or confined in jail for a period of not less than thirty (30) days nor more than two (2) years, or both. For any second or succeeding violation of this Act, any person so violating the same shall be confined in the penitentiary not less than two (2) years, nor more than five (5) years.

Upon conviction of a violation of this Act, the Court in pronouncing sentence shall also enter a judgment enjoining the defendant from slaughtering animals, selling meat, transporting meat or in any manner engaging in the business of purveying meat to the public as food for human consumption. Each day any such judgment and injunction is violated shall constitute a separate contempt.

#### Repeal

Sec. 7. Section 18 of Acts of the Forty-ninth Legislature, 1945, Page 554, Chapter 339,<sup>1</sup> where in conflict herewith, is hereby expressly repealed to the extent of such conflict only.

<sup>1</sup> Article 719d, § 18.

#### Partial invalidity

Sec. 8. If any provision, section, subsection, sentence, clause or phrase of this Act, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Act or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Legislature of the State of Texas in adopting 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, and to this end, all provisions of this Act are declared to be severable. Acts 1949, 51st Leg., p. 78, ch. 45.

Emergency. Effective March 14, 1949.

Amendment of section 4, subd. 4 by Acts 1949, 51st Leg., p. 1055, ch. 545, effective 90 days after July 6, 1949, date of adjournment.

#### Title of Act:

An Act prohibiting the selling, offering, exhibiting for sale, or having in possession with intent to sell as food for human consumption horse meat, defining horse meat, prohibiting the transfer of its possession

under certain circumstances, setting out facts constituting prima facie evidence of violations of this Act; providing that the Act shall not affect provisions of city ordinance except where providing for injunctions against persons violating the Act from engaging in the business of purveying meat; prescribing a penalty for violation of any provision of this Act; providing a repealing clause; providing a saving clause; and declaring an emergency. Acts 1949, 51st Leg., p. 78, ch. 45.

## CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art.

726b. Barbiturates, sale of [New].

## Art. 726b. Barbiturates, sale of

Section 1. From and after the effective date of this Act it shall be unlawful for the following drugs, commonly called barbiturates, to wit:

(1) Isonipecaïne (1-methyl-4 phenyl-piperidine-4 carboic acid ethylester), including any salt or preparation thereof by whatever name or trade name designated,

(2) Barbital (acid-Diethyl-barbituric), including barbital, phenobarbital and every substance neither chemically nor physically distinguishable from them or any compound, manufacture, salt or derivative of barbituric acid, or mixture or preparation of such, and

(3) Amphetamine or desoxyephedrine, or any compound, manufacture mixture, or preparation thereof, except those preparations intended for nasal or other external use; to be sold in Texas except by drug stores licensed by the State Board of Pharmacy, and upon written prescriptions by persons licensed in this State to practice medicine by the Texas State Board of Medical Examiners, and to practice dentistry by the State Board of Dental Examiners, and to practice veterinary medicine by the State Board of Veterinary Medical Examiners and to practice chiropody by the State Board of Chiropody Examiners. Provided further that no drug store in this State shall refill a prescription for any of the drugs named herein. Provided the provisions of this Act do not apply to wholesale drug firms in their contract or sales to hospitals, clinics or drug stores licensed by the State Board of Pharmacy.

Sec. 2. Any person, firm or corporation violating the provisions of Section 1 of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Ten Dollars (\$10) nor more than Two Hundred and Fifty Dollars (\$250). Acts 1949, 51st Leg., p. 912, ch. 490.

Emergency. Effective June 29, 1949.

## CHAPTER SIX—MEDICINE

Art.

742—a. The Healing Art Defined [New].

742—b. Exceptions [New].

742—c. Unlawfully Practicing Healing Art; Penalty [New].

Art.

744—a. Obtaining Basic Science Certificate by Fraud, Forgery or Counterfeit; Penalty [New].

744—b. Valid Basic Science Certificate Prerequisite to License to Practice Healing Art [New].

## Art. 740. 754 Exceptions

Nothing in this Chapter shall be so construed as to discriminate against any particular school or system of medical practice, nor to affect or limit in any way the application or use of the principles, tenets, or teachings of any church in the ministrations to the sick or suffering by prayer, without the use of any drug or material remedy, provided sanitary and quarantine laws and regulations are complied with; and provided further, that all those so ministering or offering to minister to the sick, or suffering by prayer shall refrain from maintaining offices, except for the purpose of exercising the principles, tenets, or teachings of the church of which they are bona fide members. The provisions of this Chapter do not apply to dentists, duly qualified and registered under the laws of this State, who confine their practice strictly to dentistry; nor to

duly licensed optometrists, who confine their practice strictly to optometry as defined by Statute; nor to duly licensed chiropractors who confine their practice strictly to chiropractic as defined by Statute; nor to nurses, who practice nursing only; nor to duly licensed chiropodists, who confine their practice strictly to chiropody as defined by Statute; nor to masseurs in their particular sphere of labor; nor to commissioned or contract surgeons of the United States Army, Navy or Public Health and Marine Hospital Service, in the performance of their duties, and not engaged in private practice; nor to legally qualified physicians of other states called in consultation, but who have no office in Texas, and appoint no place in this State for seeing, examining, or treating patients. This law shall be so construed as to apply to persons other than registered pharmacists of this State not pretending to be physicians who offer for sale on the streets or other public places contraceptives, prophylactics or remedies which they recommend for the cure of disease. As amended Acts 1949, 51st Leg., p. 160, ch. 94, § 20(a).

Emergency. Effective April 27, 1949.

Sections 1-19, 22-24 are published as Vernon's Ann.Civ.St. art. 4512b, section 20 as this article and arts. 741, section 21 as Vernon's Ann.Civ.St., arts. 4504 and 4510.

#### Art. 741. 755 "Practicing medicine"

Any person shall be regarded as practicing medicine within the meaning of this Chapter (1) who shall publicly profess to be a physician or surgeon and who shall treat, or offer to treat, any disease or disorder, mental or physical, or any physical deformity or injury, by any system or method, or to effect cures thereof; (2) or who shall treat, or offer to treat, any disease or disorder, mental or physical, or any physical deformity or injury by any system or method, or to effect cures thereof and charge therefor, directly or indirectly, money or other compensation; provided, however, that the provisions of this Article shall be construed with and in view of Article 740, Penal Code of Texas, and Article 4504, Revised Civil Statutes of Texas, as contained in this Act.<sup>1</sup> As amended Acts 1949, 51st Leg., p. 160, ch. 94, § 20(b).

<sup>1</sup> This article and act 740, Vernon's Ann.Civ.Stat., arts. 4504, 4510 and 4512b.

Emergency. Effective April 27, 1949.

Sections 1-19, 22-24 are published as Vernon's Ann.Civ.St., art. 4512b, section 20 as this article and art. 740, Section 21 as Vernon's Ann.Civ.St., arts. 4504 and 4510.

#### Art. 742—a. The Healing Art Defined

The healing art includes any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition. Added Acts 1949, 51st Leg., p. 170, ch. 95, § 17.

Emergency. Effective April 28, 1949.

Sections 1 to 16-a, 24, 25 are published as Vernon's Ann.Civ.St., art. 4590c, Sections 18 and 19 are arts. 742—b, 742—c, sections 20 and 21 are arts. 744—a and 744—b, sections 22 and 23 are arts. 160—a, 160—b.

#### Art. 742—b. Exceptions

The provisions of the Basic Science Law do not apply to dentists, duly qualified and registered under the laws of this State, who confine their practice strictly to dentistry, or those persons under the jurisdiction of the Texas State Board of Dental Examiners; nor to duly licensed optometrists, who confine their practice strictly to optometry as defined by Statute; nor to nurses who practice nursing only; nor to duly licensed chiropodists, who confine their practice strictly to chiropody as defined

by Statute; nor to masseurs in their particular sphere of labor; nor to commissioned or contract Surgeons of the United States Army, Navy or Public Health and Marine Hospital Service, in the performance of their duties, and not engaged in private practice; nor to legally qualified physicians of other States called in consultation, but who have no office in Texas and appoint no place in this State for seeing, examining or treating patients. The Basic Science Law shall not affect or limit in any way the application or uses of the principles, tenets, or teachings of any church in the ministrations to the sick or suffering by prayer, without the use of any drug or material remedy, provided sanitary and quarantine laws and regulations are complied with; provided however, that the provisions of this Act<sup>1</sup> shall not apply to a member of any religious faith in administering the last rites of his faith; and provided further that all those so ministering or offering to minister to the sick or suffering by prayer shall refrain from maintaining offices, except for the purpose of exercising the principles, tenets, or teachings of the church of which they are bona fide members, nor shall the Basic Science Law apply to persons licensed to practice the healing art, or any branch thereof in the State of Texas when this Act shall take full force and effect; nor shall the Basic Science Law apply to any Chiropractor who is a graduate of a school which was regularly organized and conducted as a chiropractic school in the United States at the time of such graduation and who has practiced Chiropractic one (1) year immediately preceding the effective date of this Act and who has resided in Texas for two (2) years immediately preceding the effective date of this Act and who has never had a license to practice any branch of the healing art cancelled by any American or Canadian State, Province, or Territory, provided however, that licenses voided by virtue of the decision in *Ex Parte: Halsted*, 182 S.W. (2nd) 479, shall not be construed as licenses cancelled as provided by this Section. Added Acts 1949, 51st Leg., p. 170, ch. 95, § 18, as amended Acts 1949, 51st Leg., p. 522, ch. 287, § 1.

<sup>1</sup> This article and arts. 160—a, 160—b, 742—b, 742—c, 744—a, 744—b, Vernon's Ann.Civ. St., art. 4590c.

Effective 90 days after July 6, 1949, date of adjournment.

#### Art. 742—c. Unlawfully Practicing Healing Art; Penalty

Any person who practices the healing art, or any branch thereof, without having obtained a valid certificate from the State Board of Examiners in the Basic Sciences, except as otherwise authorized by this Act,<sup>1</sup> shall be fined not less than Fifty Dollars (\$50), nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment. Each day of such violation shall constitute a separate offense. Added Acts 1949, 51st Leg., p. 170, ch. 95, § 19.

<sup>1</sup> This article and arts. 160—a, 160—b, 742—b, 742—c, 744—a, 744—b, Vernon's Ann.Civ. St., art. 4590c.

#### Art. 744—a. Obtaining Basic Science Certificate by Fraud, Forgery or Counterfeit; Penalty

Any person who obtains a basic science certificate by fraudulent means, or who forges, counterfeits or fraudulently alters any such certificate, shall be punished by confinement in the penitentiary not less than two (2) nor more than five (5) years. Added Acts 1949, 51st Leg., p. 170, ch. 95, § 20.

Emergency. Effective April 28, 1949.

Sections 1 to 16—a, 24, 25 are published as Vernon's Ann.Civ.St., art. 4590c, sec-

tions 17—19 are arts. 742—a to 742—c, section 21 is art. 744b, sections 22 and 23 are arts. 160—a and 160—b.

**Art. 744—b. Valid Basic Science Certificate Prerequisite to License to Practice Healing Art**

Any person who knowingly obtains for himself a license to practice the healing art, or any branch thereof, or who aids, advises or assists another in so doing without first obtaining a certificate of proficiency from the Basic Science Board, or any person who shall present to a licensing board authorized to grant licenses to practice the healing art, or any branch thereof, a certificate obtained from the State Board of Examiners in the Basic Sciences by dishonesty or fraud or by any forged or counterfeit certificate of proficiency, or who knowingly aids, advises or assists another in so doing, shall be guilty of a felony and upon conviction shall be punished by fine of not less than One Hundred Dollars (\$100) nor more than Two Thousand Dollars (\$2,000), or imprisonment in the penitentiary for not less than two (2) nor more than five (5) years, or by both such fine and imprisonment. Added Acts 1949, 51st Leg., p. 170, ch. 95, § 21.

**CHAPTER SEVEN—DENTISTRY**

Art.

754b. Not Accomplishes [New].

**Art. 752c. Licenses, refusing, revoking, cancelling, and suspending of****Revocation, cancellation, or suspension of license**

Sec. 4. The State Board of Dental Examiners shall, and it shall be their duty, and they are hereby authorized to revoke, cancel, or suspend any license or licenses that may have been issued by such Board, if in the opinion of a majority of such Board, any person or persons to whom a license has been issued by said Board to practice dentistry in this State, shall have, after the issuance of such license, violated any of the provisions of the Statutes of the State of Texas relating to the practice of dentistry in this State, or any of the provisions of Chapter 7, Title 12 of the Penal Code of the State of Texas, or any amendments that may hereafter be made thereto. All revocations, cancellations or suspensions of licenses by the Texas State Board of Dental Examiners shall be made as herein after provided.

All complaints to be considered by the Board shall be made in writing, signed, and verified under oath by the person presenting such complaint, which shall set out the alleged violations of such Statutes and Penal Code and declaring it to be the opinion of the person presenting such complaint that the person or persons so accused have so violated said Statutes or Penal Code.

All complaints as received shall be presented to the Secretary of the Board who shall cause copies of all complaints to be made and mailed to each member of the Board, and by registered mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes or Penal Code.

The Board or its duly authorized representatives shall cause an investigation of such complaint to be made to determine the facts in such case, and if such complaint is found to be justified, the Secretary of the Texas State Board of Dental Examiners shall docket such complaint in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been filed.

The Secretary of the Board or its authorized officer or employee shall, not less than ten (10) days prior to the next meeting of the Board called for the purpose of hearing and considering such complaint, mail

by registered mail to the last known address of such person or persons against whom a complaint has been so docketed a notice of hearing, which notice shall contain the date, time, and place of the meeting of the Texas State Board of Dental Examiners called to consider such complaint, and such notice shall contain the alleged violations of such Statutes and Penal Code, and shall state that such accused person may appear and offer such evidence as is pertinent to his defense to such complaint. Such hearing shall be governed by such rules and regulations as may be prescribed by the Board, and the Board shall have the authority to subpoena, and compel the attendance of such licensees or other persons deemed to have knowledge which would aid the Board in reaching a proper decision and for the enforcement of this Act. After such hearing, the Board shall enter an order in its minutes, as in the opinion of the majority of the Board the facts brought out at such hearing justify and require. Provided, however, that any order cancelling or revoking or suspending such license or licenses shall be signed by a majority of such Board and by all the members of such Board present at such hearing. Provided that when the license of such licensee is revoked or cancelled he shall be allowed to continue the practice of his profession pending appeal upon his giving a supersedeas bond in such amount as shall be set by the District Court, conditioned to faithfully observe the law. As amended Acts 1949, 51st Leg., p. 771, ch. 415, § 1.

#### Art. 754b. Not Accomplices

Upon a trial or hearing for the violation of any of the Articles or provisions of the Penal Code or Civil Statutes of Texas or any additions or amendments thereto pertaining to dentistry, the representatives, agents, or members of the State Board of Dental Examiners of Texas shall not be held or considered accomplices, and their uncorroborated testimony shall be sufficient to support a conviction. Added Acts 1949, 51st Leg., p. 771, ch. 415, § 2.

Emergency. Effective June 14, 1949.

Section 3 of the act of 1949 repealed all conflicting laws and parts of laws.

Section 4 read as follows: "If any article, Section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature

hereby declares that it would have passed this Act and each Section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more of the Sections, subsections, sentences, clauses, or phrases be declared unconstitutional."



## TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

### CHAPTER ONE—HIGHWAYS AND VEHICLES

Art.

827f. Speed of vehicles on beaches; driving while intoxicated [New].

#### Art. 827a. Regulating operation of vehicles on highways

##### Weights and loads of vehicles; special permits

Sec. 2. Except as otherwise provided by law, it shall be unlawful and constitute a misdemeanor for any person to drive, operate or move, or for the owner to cause or permit to be driven, operated or moved, on any highway, any vehicle or vehicles of a size or weight exceeding the limitations stated in this Act, or any vehicle or vehicles which are not constructed or equipped as required by this Act, or to transport thereon any load or loads exceeding the dimensions or weight prescribed in this Act; provided, however, that the Commissioners Courts through the County Judges of the several counties of this State shall have and are hereby granted authority to grant permits limited to periods of ninety (90) days or less for the transportation over highways of their respective counties other than State highways, overweight or oversize or overlength commodities as cannot be reasonably dismantled, or for the operation over such highways of superheavy or oversize equipment for the transportation of such oversize or overweight or overlength commodities as cannot be reasonably dismantled, and the said County Judges shall have and are hereby granted said authority independently of said Commissioners Courts until such time as said Courts shall have acted with respect thereto. Said Commissioners Courts, in their discretion, may require a bond to be executed by an applicant in such amount as will guarantee the payment of any damages which any road or bridge traversed or crossed may sustain in consequence of the transportation aforesaid. As amended Acts 1949, 51st Leg., p. 376, ch. 200, § 3.

Emergency. Effective May 14, 1949.

Sections 1 and 2 of the amendatory act 6701a and 6675a—8b, section 4 repealed all of 1949, amended Vernon's Ann.Civ.St. arts. conflicting laws and parts of laws.

##### Width, length and height

#### Sec. 3.

(C) No motor vehicle, commercial motor vehicle, truck-tractor, trailer, or semi-trailer shall exceed a length of thirty-five (35) feet, and no combination of such vehicles coupled together shall exceed a total length of forty-five (45) feet, unless such vehicles or combination of vehicles is operated exclusively within the limits of an incorporated city or town; and unless, in the case of any combination of such vehicles, same be operated by municipal corporations in adjoining suburbs wherein said municipal corporation has heretofore been using such or like equipment in connection with an established service to such suburbs of the municipality; provided, however, that the provisions of this Subsection shall not apply to a disabled vehicle being towed by another vehicle to the nearest intake place for repairs. As amended Acts 1949, 51st Leg., p. 870, ch. 469, § 1.

Emergency. Effective June 22, 1949.

Section 2 of the amendatory Act of 1949

repealed all conflicting laws and parts of laws.

**Art. 827b. Temporary registration for out of state visitors**

**Trucks, trailers, etc., used in grain movements; temporary registration permits to non-resident owners**

Sec. 2A. To expedite and facilitate, during the harvesting season, the harvesting and marketing of wheat and/or other similar grains produced in this State, the Department is authorized to issue to a non-resident owner a sixty (60) day temporary registration permit for any truck, truck-tractor, trailer or semi-trailer to be used in the movement of such grain from the place of production to market, storage or rail head. The Department is authorized to prescribe the form of the application and the information to be furnished therein for such temporary registration permits. If the application is granted, the Department shall issue a special distinguishing insignia which must be attached to such vehicle in lieu of the regular Texas highway registration plates. Such special insignia shall show its expiration date. The temporary registration permit fee shall be one-sixth (1/6th) of the annual Texas registration fee for the vehicle for which the special permit is secured.

The temporary permit herein authorized shall be issued only when the vehicle for which said permit is issued is legally registered in the non-resident owner's home State, for the current registration year, and said permit will remain valid only so long as the home State registration is valid; but in any event the Texas temporary registration permit will expire sixty (60) days from the date of issuance. A vehicle registered under the terms of this Act may not be operated in Texas after the expiration of the temporary permit, unless the non-resident owner registers the vehicle under the appropriate Texas vehicular registration statutes, applicable to residents, for the remainder of the registration year. No such vehicle may be registered with a farm truck license.

Nothing in this Act shall be construed to authorize such non-resident owner or operator to operate or cause to be operated any of such vehicles in this State in violation of Acts 1929, 41st Legislature, Chapter 314, as amended, (Article 911b V.C.S.) or any of the other laws of this State. Added Acts 1949, 51st Leg., p. 117, ch. 70, § 1.

Emergency. Effective April 6, 1949.

Sections 2-4 of the act of 1949 read as follows:

"Sec. 2. This Act shall expire June 1, 1953, and shall not thereafter be in effect.

"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 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.

"Sec. 4. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

**Art. 827f. Speed of vehicles on beaches; driving while intoxicated**

**Unlawful acts; definitions**

Section 1. It shall be unlawful for any person to drive or operate any motor vehicle or other vehicle upon any beach in the State of Texas at a rate of speed in excess of twenty-five (25) miles per hour during the daytime and in excess of twenty (20) miles per hour during the nighttime, or to operate same at any time while the operator of such vehicle is intoxicated or under the influence of intoxicating liquor. The term "beach" as used in this Act means that portion of the shore adjacent to the Gulf of Mexico, or any of its inlets, bays, lagoons, sounds, channels or canals, between the high and low water marks, over which the tides ebb and flow, where persons congregate at any time, which is not a public road or a public highway within the meaning of Article 802 of the Penal Code of

Texas, 1925, as amended by Chapter 507, Acts of the Regular Session of the Forty-seventh Legislature, 1941; the term "daytime" as used in this Act shall mean the period of time beginning thirty (30) minutes before sunrise and ending thirty (30) minutes after sunset.

#### Arrests

Sec. 2. Any peace officer is authorized to arrest without warrant any person found violating any provision of this Act.

#### Punishment

Sec. 3. Any person convicted of violating any provision of this Act shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine in any sum not to exceed Two Hundred Dollars (\$200), or by confinement in the county jail for any period of time not more than thirty (30) days, or by both such fine and imprisonment.

#### Suspension of drivers license

Sec. 3a. The drivers license of any person shall be automatically suspended upon final conviction of the offense of driving or operating a motor or other vehicle while intoxicated, under this Act, as follows: Upon first conviction, for a period of six (6) months from and after the date of conviction; and upon any subsequent conviction for a period of twelve (12) months from and after the date of such conviction. Whenever any person is convicted of any offense for which this Act makes automatic the suspension of the drivers license, the suspension thereof shall be accomplished in the manner provided in Article IV, of Chapter 173, of the Acts of the Forty-seventh Legislature, 1941.<sup>1</sup> By the term "drivers license" as used herein is meant all "operators'," "commercial operators'," and "chauffeurs'" licenses provided for in Chapter 173 of the Acts of the Forty-seventh Legislature, 1941.<sup>2</sup>

<sup>1</sup> Vernon's Ann.Civ.St. art. 6687b, art. IV.

<sup>2</sup> Vernon's Ann.Civ.St. art. 6687b.

#### Application of act

Sec. 4. The provisions of this Act shall not apply to those portions of beaches which are public roads or public highways, and nothing herein shall in any manner affect or alter existing laws governing the operation of motor vehicles upon public roads and public highways of this State.

#### Partial invalidity

Sec. 4a. If any Section or portion of this Act be held invalid or unconstitutional, such invalidity shall not affect the remaining portions of this Act, it being declared to be the intention of the Legislature to enact such portions separately. Acts 1949, 51st Leg., p. 804, ch. 430.

Emergency. Effective June 17, 1949.

## CHAPTER SIX—GAME, FISH AND OYSTERS

Art.		987l—5. Lake Texoma fishing licenses [New].
895a. License to hunt deer and turkey [New].		978l—6. Lake Texoma; rough fish [New].
934b—2. Commercial fishing in tidal waters [New].		978n—1. Game law for counties in 29th and 31st Senatorial Districts [New].
941b. Minnows and rough fish, manner of taking [New].		

Art. 879g—2a. Collared peccary or javelina in Jim Hogg, Crockett, Dimmit, Frio and other counties

Provided, however, that it shall be lawful to take, capture, shoot, or kill Collared Peccary or Javelina in the Counties of Jim Hogg,

Crockett, Dimmit, Frio, Kinney, LaSalle, Maverick, Medina, McMullen, Starr, Uvalde, Val Verde, Webb, Zapata, and Zavala, 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 1949, 51st Leg., p. 14, ch. 16, § 1.

Emergency. Effective March 3, 1949.      repealed all conflicting laws and parts of  
 Section 2 of the amendatory Act of 1949      laws.

#### **Art. 880. Hunting with dogs**

It is hereby declared unlawful for any person or persons to make use of a dog or dogs in the hunting of or pursuing or taking of any deer. Any person or persons owning or controlling any dog or dogs and who permits or allows such dog or dogs to run, trail, or pursue any deer at any time shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than Twenty-five Dollars (\$25), and not more than Two Hundred Dollars (\$200); provided however, that this Article shall not apply to the Counties of Brazoria, Matagorda, Wharton, Jackson, and Fort Bend. And, provided further, that it shall be lawful to use dogs for the purpose of trailing a wounded deer in the Counties of Kimble, Sutton, Edwards, Medina, Dimmit, Uvalde, Zavala, Kerr, Mason, Gillespie, Tom Green, Shackelford, San Saba, Llano, Blanco, Burnet, Bandera, Comal, Real, Kendall, Wharton, Schleicher, Crockett, Guadalupe, Jackson, Wilson, Concho, Karnes, Jones, Atascosa, Baylor, Bexar, Brewster, Caldwell, Denton, DeWitt, Frio, Gonzales, Haskell, Hays, Hidalgo, Jack, Kaufman, Cameron, Starr, Webb, and Zapata. As amended Acts 1949, 51st Leg., p. 15, ch. 18, § 1.

Sec. 1A. It shall be lawful to use one dog for the purpose of hunting or pursuing or taking of any deer in the County of Tyler. As amended Acts 1949, 51st Leg., p. 15, ch. 18, § 1.

Emergency. Effective March 3, 1949.

#### **Art. 895a. License to hunt deer and turkey**

##### **Big Game Hunting License**

Section 1. It shall be unlawful for any citizen of this State to hunt, take or kill any deer or turkey in this State without first having procured from the Game, Fish and Oyster Commission, or one of its authorized agents, a big game hunting license. Such license shall entitle the holder to all privileges now or otherwise allowed under a resident hunting license. The fee for a big game hunting license shall be Two Dollars and Fifteen Cents (\$2.15). Of this amount fifteen cents (15¢) may be retained by the issuing officer as his collection fee.

##### **Form of License**

Sec. 2. It shall be unlawful for any person to issue or accept any license required by the provisions of this Act, except on a form provided by the Game, Fish and Oyster Commission. Each license issued under the provisions of this Act shall have attached thereto the number of deer tags equal to the number of deer permitted to be killed during the deer season fixed by law for the year for which such big game license is

issued. Each deer tag shall bear the serial number of the license to which it is attached. Each license and the deer tags thereto attached shall bear the name, address and residence of the person to whom issued, and the license shall give the approximate weight, height, age, color of hair and eyes of such person, in order that proper identification may be had in the field. Each license and deer tags thereto attached shall be dated on the date of issuance, and shall have printed across its face the year for which it is issued; and such license shall expire on the last day of August thereafter. Each license and the tags thereto attached shall be signed by the licensee at the time such license is received by him.

#### **Duplicate License**

Sec. 3. It shall be unlawful for any person to procure or possess more than one big game license during a license year. Provided, however, in the event the holder of a license provided for in this Act shall have lost such license, or same shall have become destroyed, such license holder may file with the Game, Fish and Oyster Commission or its authorized agent an application in the form of an affidavit as to the facts of such loss or destruction, which affidavit shall contain a statement as to the number of deer, if any, said applicant has killed under such last or destroyed license; whereupon said Commission or its authorized agent may issue to such person a duplicate license, the fee for which shall be fifty cents (50¢), without exception; provided, however, that such issuing officer shall remove a deer tag from such duplicate license for each deer killed by such applicant.

#### **False Swearing**

Sec. 4. Any person who, in making an affidavit as provided for in this Act shall knowingly make a false affidavit of fact, shall be deemed guilty of false swearing and shall be punished in accordance with the provisions of Article 310, Penal Code, State of Texas.

#### **Deer Tag**

Sec. 5. It shall be unlawful for any person to have in his possession at any time the carcass of any wild deer that does not have attached thereto a tag issued to such person under the provisions of this Act, bearing the date and place of kill of the deer to which it is attached. Such tag will be so constructed that once placed upon a deer could not be removed without mutilation. Such deer tag shall remain on said deer carcass while on storage and until finally processed or destroyed. It shall be unlawful for any person to use more deer tags during one license year than are attached to his big game license for that year. It shall be unlawful for any person to use the same deer tag on more than one deer. It shall be unlawful for any person to use a deer tag which was not issued to such person. Nothing in this Act shall be construed to authorize any person to exceed any bag limit or to hunt deer during closed season provided for deer; and the fact that a deer tag was attached to the carcass or hide of any deer shall not be prima-facie evidence that such deer was lawfully killed.

#### **Disposition of Fees and Fines**

Sec. 6. The method of collecting, recording, reporting and remitting the fees derived from sale of licenses provided for herein shall be the same as that provided by law for other hunting licenses; and all moneys received by the Game, Fish and Oyster Commission from sale of big game hunting licenses as well as moneys collected from violations of this Act, shall be deposited in the State Treasury to the credit of the Special Game and Fish Fund and used for the purposes provided by law.

**Exemption**

Sec. 7. No citizen of this State under seventeen (17) years of age shall be required to pay the fee prescribed for the license provided for in this Act; nor shall any citizen be required to pay said fee before taking, killing or hunting deer or turkey on land on which he is residing. Provided, however, that any person exempted by this Section shall first register with the Game, Fish and Oyster Commission or one of its authorized agents, on a form to be furnished by said Commission, and receive from said Commission a big game license which shall be in the form and signed by such exemption licensee as prescribed herein for licenses for which a fee is charged; but in addition thereto, such exemption license shall clearly show on its face that it is an exemption license.

**Penalty**

Sec. 8. Any person who shall violate any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction therefor shall be fined in a sum not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). Acts 1949, 51st Leg., p. 704, ch. 369.

Effective 90 days after July 6, 1949, date of adjournment.

**Title of Act:**

An Act providing for and requiring big game hunting license for hunting deer or turkey; prescribing its form, fixing fee, providing for issuance of duplicate license and penalty for false swearing in connection therewith; making certain requirements as to attachment and use of deer tags; providing for method of collecting, recording, reporting and remitting fees derived therefrom and disposition of fees and fines from infractions of this Act; making exemptions; fixing penalty for violation of this Act; and declaring an emergency. Acts 1949, 51st Leg., p. 704, ch. 369.

tion therewith; making certain requirements as to attachment and use of deer tags; providing for method of collecting, recording, reporting and remitting fees derived therefrom and disposition of fees and fines from infractions of this Act; making exemptions; fixing penalty for violation of this Act; and declaring an emergency. Acts 1949, 51st Leg., p. 704, ch. 369.

**Art. 923//—1. Open season for squirrels in certain counties**

Hereafter it shall be lawful to kill squirrels at any time in the Counties of Runnels, Travis, Williamson, San Saba, Llano, Lampasas, Burnet, Goliad, Blanco, Hays, Tom Green, Irion, Sterling, Concho, Erath, Bell and Hood. As amended Acts 1949, 51st Leg., p. 11, ch. 11, § 1.

Emergency. Effective March 3, 1949.

**Art. 934b—1. Repealed. Acts 1949, 51st Leg., p. 113, ch. 68, § 12. Eff. April 6, 1949**

**Art. 934b—2. Commercial fishing in tidal waters**

**Definitions**

Section 1. The following words, terms and phrases used in this Act are hereby defined as follows:

(a) A "Commercial Fisherman" is any person who takes fish or oysters or shrimp or other edible aquatic products from tidal waters of this state, for pay, or for the purpose of sale, barter or exchange.

(b) A "Commercial Fishing Boat" is any boat or vessel which is required to be numbered or registered by and under the laws of the United States of America or the State of Texas, and which is used for the purpose of taking, catching, or assisting in taking or catching fish, shrimp, oysters, or any other edible aquatic life from tidal waters of the State of Texas for pay or for the purpose of sale, barter or exchange.

(c) "Tidal Waters" as that term is used herein, means all of the salt waters of the State of Texas, including that portion of the state's territorial waters in the Gulf of Mexico within three (3) marine leagues from shore.

**Commercial fishermen's licenses**

Sec. 2. Before any commercial fisherman shall take, catch or assist in taking, any fish, shrimp or oysters, or any other edible aquatic life from the tidal salt waters of this state, a license shall first be procured from the Game, Fish and Oyster Commission of Texas privileging him so to do. The fee for such Commercial Fisherman's License shall be Three (\$3.00) Dollars, and said license shall expire August 31st following the date of issuance.

**Commercial fishing boat licenses**

Sec. 3. Before any Commercial Fishing Boat shall be used for the purpose of taking, catching, or assisting in taking or catching fish, shrimp, oysters, or any other edible aquatic life from the tidal waters of this state, for pay, or for the purpose of sale, barter or exchange, a license, to be known as a Commercial Fishing Boat License, shall first be procured by the owner of such commercial fishing boat from the Game, Fish and Oyster Commission of Texas privileging such boat to be so used. The fee for a Commercial Fishing Boat License shall be Six (\$6.00) Dollars, and said license shall expire August 31st following the date of issuance.

**Quota of boat licenses**

Sec. 4. In July of each year the Game, Fish and Oyster Commission of Texas shall set the quota of Commercial Fishing Boat Licenses to be issued the succeeding conservation year, which shall extend from September 1st of such year to August 31st of the succeeding year, after a survey and investigation and determination of the maximum poundage of shrimp, oysters and other edible aquatic life which may be caught during the following year commercially without danger to the maximum point of production; and when, in the opinion, finding and determination of the Commission, the maximum production has been reached so as to assure the ability to take a maximum crop for the following year, and the Commercial Fishing Boat Licenses and Commercial Fisherman's Licenses quotas for the current conservation year have been reached, then the Commission shall not issue any additional licenses except upon a public hearing after due notice to the public and persons interested under such rules and regulations as may be promulgated by the Commission. Within thirty (30) days after the effective date of this Act, the Commission shall determine the conservation quota for the period remaining until August 31, 1949, and shall issue licenses under such quota.

**Duration of existing licenses**

Sec. 4a. From and after the effective date of this Act all holders of present licenses shall be entitled to operate thereunder until September 1, 1949.

**Renewal of licenses; priority; applications by new applicants**

Sec. 5. After August 31, 1949, holders of prior licenses shall upon application made prior to September 1 of each year be entitled to a renewal thereof, and no new license shall be issued unless and until the holders of prior licenses who have applied for renewal licenses shall have been granted their licenses. Thereafter, new applicants who are resident citizens of Texas shall be given next priority in the order their applications were filed. In the event such applicant has not heretofore received for the current or prior year such license as applied for, or does not have the original or a duplicate thereof, such applicant shall make in writing, under oath, duly acknowledged in the State of Texas, an application addressed to the Game, Fish and Oyster Commission of Texas,

giving in full detail information regarding the domicile, residence of the applicant, name, age, description, social security number, place of birth or naturalization; and if a resident of Texas, the date such residence was acquired and the place and state of former residence; whether or not the applicant has been convicted of violating the game and fish laws of the State of Texas, or of any other state or nation, and if so, the number, dates and places where convictions were had; and such other information as the Game, Fish and Oyster Commission of Texas shall require in order to determine the proper license and the rights of the applicant to receive or be denied such license or permit.

The failure of any applicant to give all of the information required herein shall constitute grounds for the refusal of such permit, and it shall be mandatory upon the Commission to refuse such permit. The making of any false statement shall constitute a felony, the crime of perjury punishable under the penal laws of this state, and shall be grounds for cancellation of any license issued under and by virtue of such application.

**Acts without license unlawful**

Sec. 6. It shall be unlawful for any commercial fisherman to take, catch, or assist in taking or catching any fish, shrimp, oysters or any other edible aquatic life, or for any commercial fishing boat to be used for such purposes within the tidal waters of this state, as herein defined, without first having obtained the licenses herein provided for.

**Replacement of lost or destroyed boat**

Sec. 7. The owner of a Commercial Fishing Boat License whose licensed boat or vessel has been lost or destroyed due to fire or storm or abandonment of said vessel for commercial fishing purposes, may replace such boat by a boat of like size, or smaller size, without losing his license number for the year or his priority for future licenses.

**Research programs; change in quota**

Sec. 8. The Game, Fish and Oyster Commission shall have the power to formulate research programs in the making of its annual survey and to determine whether or not a public necessity exists for a change in the quota of licenses for any succeeding year.

**Powers and duties of commission; review of orders**

Sec. 9. The Game, Fish and Oyster Commission shall have such powers and duties as are conferred upon it by this Act and by other laws of this state, and its findings and determination shall be subject to review by a court of competent jurisdiction. The orders of the Game, Fish and Oyster Commission may be appealed to a District Court of Travis County, Texas, and the trial therein shall be de novo the same as if such matter had been originally filed in such court. The Game, Fish and Oyster Commission shall have authority to promulgate rules and regulations to carry out the provisions of this Act and to prescribe the time and place of its meetings and hearings and the procedure to govern same.

**Violations and punishment; seizures; injunction**

Sec. 10. 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 (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or imprisonment in jail of not less than one (1) month nor more than one (1) 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. Such violations also may be enjoined by the Attorney General by suit filed in a District Court of Travis County, Texas, which shall have venue for such action.

#### Disposition of fines

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 Special Game and Fish Fund.

#### Partial invalidity

Sec. 13. If any section or part whatsoever of this Act shall be held to be unconstitutional or 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 1949, 51st Leg., p. 113, ch. 68.

Emergency. Effective April 6, 1949.

Section 12 of this act read as follows: "That Chapter 55 of the Acts of the 49th Legislature, 1945, page 78, and Chapter 59, Acts of the 50th Legislature, 1947, page 86 [Art. 934b—1], and all laws and parts of laws in conflict with this Act be, and they are hereby expressly repealed."

The act of 1949 contained the following Preamble: "WHEREAS, the edible aquatic life and resources within tidal waters of the State of Texas are being depleted and exhausted to an extent that the maximum point of production is being threatened from over-fishing, and it is imperative that the fish stocks be protected therefrom, it is declared to be the public policy of the State of Texas that its fish resources be

maintained in such condition that maximum catches can be had from them consistently and continuously; therefore,"

#### Title of Act:

An Act to conserve the edible aquatic life within tidal waters of the State of Texas; defining "commercial fisherman" and "commercial fishing boats" and providing for certain fees and licenses; defining the authority of the Game, Fish and Oyster Commission; repealing Acts, 1945, 49th Legislature, page 78, Chapter 55, and Acts, 1947, 50th Legislature, page 86, Chapter 59; repealing all laws in conflict herewith; providing a penalty; providing a severance and savings clause; and declaring an emergency. Acts 1949, 51st Leg., p. 113, ch. 68.

#### Art. 941b. Minnows and rough fish, manner of taking

Section 1. It shall hereafter be lawful to use fruit jars with funnel thereto attached for the purpose of taking minnows for bait in the public waters of the State of Texas.

Sec. 2. It shall hereafter be lawful to use minnow seines not more than twenty feet long and cast nets of any size mesh for the purpose of taking shad, carp, suckers, gar and buffalo fish from the public waters of the State of Texas. Acts 1949, 51st Leg., p. 845, ch. 460.

Emergency. Effective June 21, 1949.

Section 3 of the act of 1949 read as follows: "All laws, local, special or general, or any part thereof insofar as they conflict with the provisions of this Act, are hereby repealed."

#### Title of Act:

An Act permitting the use of fruit jars

with funnel attached for taking minnows for bait, and the use of twenty-foot minnow seines and cast nets of any size mesh for taking certain rough fish in the public waters of the State of Texas; repealing conflicting laws; and declaring an emergency. Acts 1949, 51st Leg., p. 845, ch. 460.

#### Art. 952l—7. Regulating fishing in Dimmit and other counties

Section 1. Any and all persons shall be permitted to take or catch suckers, buffalo, carp, shad or gar in any of the fresh waters of Bosque, Dimmit, Zavala, Medina, Uvalde, DeWitt, Coryell, Gonzales, Lamar,

Bell, Collin, Grayson, Gillespie, Kendall, Menard, Kimble, McLennan, Mills, Jefferson, Blanco, Llano, Mason, McCulloch, San Saba, Cooke, Denton, Orange, Mitchell, Fisher, Nolan, Chambers, Travis, Hardin, Lampasas, Fannin, Burnet, Williamson, Parker and Comanche Counties, with a seine or net, the meshes of which shall not be less than one (1) inch square, and any and all persons shall be permitted to take or catch suckers, buffalo, carp, shad, or gar with wire, rope, or gig at any time of the year; provided, however, that any bass, crappie or white perch, catfish, perch, bream, or trout caught by the above-mentioned methods shall be immediately released in the waters from which they are caught. As amended Acts 1949, 51st Leg., p. 211, ch. 117, § 1.

Emergency. Effective May 3, 1949.

Section 2 of the amendatory act of 1949, read as follows: "Acts, 1945, Forty-ninth Legislature, Regular Session, Chapter 175, page 231 as amended by Acts, 1947, Fiftieth Legislature, Regular Session, Chapter 158, page 262, is hereby repealed [G.C. art. 978j note]; and all laws or parts thereof in conflict with this Act are hereby repealed; provided, however, that nothing herein contained shall be construed to repeal the provisions of Acts, 1943, Forty-

eighth Legislature, page 203, Chapter 123, Acts 1943, Forty-eighth Legislature, page 5, Chapter 6, Acts 1941, Forty-seventh Legislature, page 668, Chapter 410, and Acts, 1939, Forty-sixth Legislature, Special Laws, page 793, Chapter 44. It is the intention of the Legislature that the General Laws pertaining to fishing shall apply to the waters of Comanche County except as same shall conflict with the provisions of this Act."

#### **Art. 952l—11. Shrimp; classification of fish; taking nongame fish**

##### **Trawling at night in certain waters**

**Sec. 1c.** Provided, however, that it shall be lawful to trawl for and take shrimp at any time, during the day or night, so long as the trawling for and the taking of same shall be outside of and exclusive of any and all inland bays and waters, from those portions of the Gulf of Mexico thirteen (13) fathoms or more in depth in the territorial waters of the State of Texas lying within the following boundaries:

A line extending from the mouth of the Colorado River due southeast a distance of twenty-five (25) miles into the Gulf of Mexico and a line extending from the mouth of the Rio Grande River at the international boundary between the United States and the Republic of Mexico twenty-five (25) miles out from shore in the Gulf of Mexico; and said last named boundary to extend along the said international boundary as far out as the territorial waters of the State of Texas extend. Added Acts 1949, 51st Leg., p. 330, ch. 160, § 1.

Emergency. Effective May 13, 1949.

#### **Art. 978j. Expired**

For fish and game laws applicable only to the named counties, see notes under Vernon's Ann.Pen. Code, art. 978j.

#### **Art. 978l—5. Lake Texoma fishing licenses**

##### **Application of law**

**Section 1.** This Act shall apply only to that portion of the State of Texas which is inundated by the waters impounded by a dam across the channel of the Red River, known as Denison Dam, situated near the City of Denison, Texas, which impoundment is commonly known as Lake Texoma, and shall apply to any other portion of that area of land acquired or that hereafter may be acquired by the United States Government for the operation of said reservoir.

**Unlawful to fish without license**

Sec. 2. It shall be unlawful for any person to fish, or to attempt to take or catch fish, from the waters described in Section 1 of this Act without first having procured for himself and having in his possession and on his person a currently valid fishing license, as hereinafter provided.

**Kinds and duration of licenses**

Sec. 3. There is hereby created a license to be known as the Lake Texoma Fishing License. Such license shall be valid from date of issuance until the following December 31st. There is hereby created a license to be known as the Lake Texoma Ten-day Fishing License, which shall be valid for only ten consecutive days, including the date of issuance. A Lake Texoma Fishing License or a Lake Texoma Ten-day Fishing License shall be required of all persons who fish in the waters within the boundaries of the area described in Section 1 of this Act. Provided, however, that such license shall not be required of residents of Texas when such residents are engaged in fishing within the territorial boundaries of this State.

**Fees**

Sec. 4. The fee for a Lake Texoma Fishing License shall be \$5.00; 15¢ of this amount may be retained by the issuing officer as his fee for issuing same. The fee for a Lake Texoma Ten-day Fishing License shall be \$1.25; 15¢ of which may be retained by the issuing officer as his fee for issuing same. The remainder of the fees so collected, for either a Lake Texoma Fishing License or a Lake Texoma Ten-day Fishing License shall be remitted to the Game, Fish and Oyster Commission, at its office in Austin, Texas, not later than the 10th day of the month following date of issuance, and shall be deposited by said Commission in the State Treasury to the credit of the Special Game and Fish Fund.

**Form and contents of license**

Sec. 5. Each Lake Texoma Fishing License or Lake Texoma Ten-day Fishing License shall be upon the form prescribed by the Game, Fish and Oyster Commission, and shall bear the name and address of the licensee, his personal description, date of issuance, and such other information as may be deemed necessary for the proper enforcement of this Act.

**Accounting and division of fees**

Sec. 6. The Game, Fish and Oyster Commission is hereby empowered and directed to keep separate and strict accounting of the revenue derived from collections for Lake Texoma Fishing License and Lake Texoma Ten-day Fishing License for annual division between the States of Texas and Oklahoma, said division to be on a basis of the proportionate area of the Lake's surface lying within the territorial jurisdiction of the respective states. The Comptroller of Public Accounts is hereby directed to pay over to the State of Oklahoma seventy (70%) percent of the funds collected under the provisions of this Act, said payment to be made on February 1 of each year, from all funds so collected during the twelve-month period ending December 31 of the previous year.

**Reciprocal legislation by Oklahoma**

Sec. 7. Provisions of this Act shall not become effective unless and until the State of Oklahoma shall make provision for sale of a Lake Texoma Fishing License and a Lake Texoma Ten-day Fishing License under the same relative conditions set out above and to provide for payment by the State of Oklahoma to the State of Texas not less than thirty (30%) percent of all monies collected by the State of Oklahoma for herein

prescribed special licenses to be in effect on Lake Texoma, said licenses to be sold in the State of Oklahoma to be parallel in all provisions established as in effect in the State of Texas.

**Violations**

**Sec. 8.** Any person violating any provision of this Act shall, upon conviction, be fined in a sum of not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars; and the net amounts of fines so collected shall be remitted to the Game, Fish and Oyster Commission and shall be deposited in the Special Game and Fish Fund, and may be used for all of the purposes provided for by law for the use of said fund.

**Effective at direction of commission**

**Sec. 9.** This Act shall become effective at the direction of the Texas Game, Fish and Oyster Commission and only after said Commission is satisfied that companion Acts of the Legislatures of the States of Texas and Oklahoma are not in conflict in any provisions and that provision has been made for reciprocal payments between the two States of all funds collected under provisions of the Acts on the basis of seventy (70%) percent to the State of Oklahoma and thirty (30%) percent to the State of Texas. Acts 1949, 51st Leg., p. 471, ch. 255.

Emergency. Effective May 23, 1949.

Complementary Law. See Okl. Laws 1949, p. 788, set out in note under 29 Okl. St. Annot. § 19.4.

**Title of Act:**

An Act to regulate fishing in Lake Texoma, providing for license fees and a divi-

sion of fees between Texas and Oklahoma, and empowering the Game, Fish and Oyster Commission to put the law in effect; repealing conflicting laws; and declaring an emergency. Acts 1949, 51st Leg., p. 471, ch. 255.

**Art. 978/—6. Lake Texoma; rough fish**

**Section 1.** It shall be lawful for any person to take or catch suckers, buffalo, carp, shad or gar in the waters of Lake Texoma in Cooke and Grayson Counties (being those waters impounded by a dam across the channel of Red River near Denison, Texas) with a seine or net the meshes of which shall not be less than one and one-half inches square; provided, however, that any fish other than those above enumerated caught by the above mentioned methods shall be immediately released in the waters from which caught.

**Sec. 2.** It shall be unlawful for any person to have in possession any bass, crappie, or white perch, catfish, perch or bream at the time such person has in possession any of the above named rough fish taken by the methods permitted in this Act; or to have in possession any bass, crappie, or white perch, catfish, perch or bream caught while using a one and one-half inch mesh seine or net for the purpose of taking suckers, buffalo, carp, shad or gar.

**Sec. 3.** It shall hereafter be lawful to sell or buy any sucker, buffalo, carp, shad or gar taken from the herein mentioned waters.

**Sec. 4.** Any person who shall violate any provision of Section 2 of this act shall be deemed guilty of a misdemeanor and upon conviction therefor shall be fined in a sum not less than ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars. Acts 1949, 51st Leg., p. 911, ch. 489.

Emergency. Effective June 29, 1949.

Section 5 of the Act of 1949 repealed all conflicting laws and parts of laws.

**Title of Act:**

An Act regulating fishing in Lake Tex-

oma permitting sale of certain rough fish; providing a penalty for violation hereof; repealing conflicting laws; and declaring an emergency. Acts 1949, 51st Leg., p. 911, ch. 489.

**Art. 978n-1. Game law for counties in 29th and 31st Senatorial Districts****Legislative policy**

Section 1. This Act shall apply only to Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemp-hill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Cottle and Motley Counties, comprising the 31st Senatorial District and certain counties in the 29th Senatorial District of this State. It shall be unlawful, except as provided in this Act, for any person to hunt, take, kill or possess, or attempt to hunt, take, or kill any game bird or game animal in said counties at any time; or to take, kill, trap or possess, or attempt to take, kill or trap any fur-bearing animal in said counties at any time; or to take or attempt to take any fresh water fish by any means or method in said counties at any time. In order to better conserve an ample supply of the wild life resources in said counties, to the end that the most reasonable and equitable privileges may be enjoyed by the people of said counties and their posterity in their ownership and in the taking of such resources, it is deemed for the public welfare that this Legislature should provide a law adaptable to changing conditions and emergencies which threaten depletion or waste of the wild-life resources of said counties. The Game, Fish and Oyster Commission is therefore granted the authority, power and duty to provide, by proclamation, rule or regulation, from time to time, periods of time when it shall be lawful to take a portion of the wildlife resources of said counties, when its investigation and findings of fact disclose there is an ample supply of such wildlife resources that a portion thereof may be taken which will not threaten depletion or waste of such supply. It shall also, by proclamation, rule or regulation, from time to time, provide the means and the method and the place and the manner in which such wildlife resources may be lawfully taken; provided, however, that it shall be unlawful for any person to hunt, take, kill or possess, or attempt to hunt, take or kill any game bird or game animal in said counties at any time; or to take, kill, trap or possess, or attempt to take, kill or trap any fur-bearing animal in said counties at any time; or to take or attempt to take any fresh water fish by any means or method in said counties at any time; unless the owner of the land or the water, or his duly authorized agent, shall give consent thereto.

**Regulatory power**

Sec. 2. It shall be the duty of the Game, Fish and Oyster Commission to conduct, from time to time, continuous scientific research investigations and studies of the supply, economic value, environment, breeding habits, and so far as possible the sex ratio of the different species of game birds, game animals, fur-bearing animals, fresh water fish, as well as the factors affecting their increase or decrease, particularly with reference to hunting, trapping, fishing, disease, infestation, predation, agricultural pressure, over-population, and any and all other factors that enter into a reduction or an increase in the supply of such wildlife resources of the counties enumerated in Section 1 hereof. Pursuant to and based upon such studies, said Commission shall enter its findings of fact with respect thereto, and if, in the opinion of the Commission, an open season or period of time may be safely provided for any of the wildlife resources of said counties, said Commission is authorized and directed from time to time to provide an open season or period of time when such wildlife resources may be taken. The proclamation, rule or regulation issued by the Commission shall be specific as to the quantity,

species, sex, age or size that may be taken. Such proclamation, rule or regulation shall provide the method or means that may be resorted to as well as the area, county or portion of the county where such wildlife resources shall be taken. In order to prevent depletion or waste of the wildlife resources of said counties, the Game, Fish and Oyster Commission shall have authority from time to time by proclamation, rule or regulation to conserve the wildlife resources of said counties by an open season or period of time when it shall be lawful to take a portion of such wildlife resources of said counties.

**Facts to support order**

Sec. 3. When said Commission shall find, from its investigations herein provided for, that danger of depletion, as defined in this Act, of any species of fresh water fish, game bird, game animal or fur-bearing animal, exists in any portion of the counties enumerated in Section 1 hereof, it shall be the duty of said Commission to revoke or modify or otherwise amend its order or orders so as to deter or prevent contribution to depletion of such species by the taking thereof. When said Commission shall find that danger of waste, as defined in this Act, of any of such species of fresh water fish, game bird, game animal or fur-bearing animal, or sex thereof, exists in any portion of any of said counties, it shall be the duty of said Commission to issue or amend or revoke or modify such of its rules and regulations as will afford to all of the people of said counties the most equitable and reasonable privileges in the pursuit, taking or killing of such species or sex thereof in said area. Provided further, that when said Commission shall find that danger of depletion exists in any area by virtue of an act of God, such as from flood, hurricane, fire, or drouth, said Commission shall declare a state of emergency as to such species in said area, and its orders, rules and regulations issued under such state of emergency shall take effect and be in full force immediately upon issuance thereof.

**"Depletion" defined**

Sec. 4. "Depletion" as used in this Act shall be construed to mean reduction of a species below immediate recuperative potentials by any deleterious cause or causes.

**"Waste" defined**

Sec. 5. "Waste" as used in this Act shall be construed to mean supply of a species or sex thereof sufficient that a seasonal harvest thereof will not prevent, or, in the case of over-population, that will aid in, the re-establishment of normal numbers of such species.

**Killing and taking doe deer**

Sec. 6. Said Commission shall not issue its regulation authorizing the hunting of doe deer in any area until the owner or person in charge of such area shall have agreed in writing to the following: to the removal by hunting of such doe deer from his tract under supervision and regulations of said Commission; and to the number of doe deer which may be removed therefrom under sound wildlife management practices; and it is further provided that any person holding a legal hunting license shall attach the deer tag or tags to doe deer killed or taken in the season and place designated by the Game, Fish and Oyster Commission.

**Antelope and elk permits**

Sec. 7. It shall be unlawful for any person to hunt, or attempt to hunt or take, any prong-horned antelope or wild elk until he has first obtained a

currently valid hunting permit therefor, and for which he has paid a sum of Five (\$5.00) Dollars. Whenever said Game, Fish and Oyster Commission shall have issued its rule, regulation or order permitting the hunting of such species, and regulating the number which may be taken and the area on which such species may be hunted, under the provisions of this Act, such permits shall be available to applicants in such way as to give all applicants an impartial opportunity to obtain such permit to the extent of the total number issued. No person shall receive more than one (1) permit. Each permit shall designate the area on which such permittee may hunt.

#### **Adoption of regulations**

Sec. 8. Orders, rules and regulations shall be adopted by the quorum of said Commission, and only at any regular or special Commission meeting or meetings, of the date and time of which each Commissioner shall have been notified in writing by the executive secretary of said Commission (or his assistant in his absence), and such meetings for such purpose shall be held only in said Commission's office at Austin, Texas. Any person interested shall be entitled to be heard at such meetings and to introduce evidence as to imminence of waste or depletion, as defined in this Act. Provided that four (4) members, or the Chairman and three (3) members of said Commission shall constitute a quorum; and provided further, that no order, rule or regulation, general or local, shall be adopted at any regular or special meeting of the Commission unless and until a quorum is present.

#### **Effective period of regulations**

Sec. 9. Orders, rules and regulations adopted by said Commission shall become effective ten (10) days after their adoption, except in case of emergency as provided in this Act, and shall continue in full force and effect until they shall expire by their own terms, or are revoked or amended by said Commission.

#### **Publication of regulations**

Sec. 10. Immediately after its adoption a copy of each order, rule or regulation adopted by said Commission shall be numbered and filed in its office in Austin, Texas; and a copy thereof shall be filed in the office of the Secretary of State, and the office of each County Clerk and each County Attorney in the counties enumerated in Section 1 hereof, and a mimeographed copy shall be furnished to each employee of said Commission.

#### **Powers not limited**

Sec. 11. Said Commission shall be vested with broad discretion in administering this Act, and to that end shall be authorized to adopt any and all reasonable rules, regulations or orders which it finds are necessary and proper to effectuate the provisions and purposes of this Act. The particular regulatory powers herein granted to said Commission shall not be construed to limit other and general powers conferred by law. It is further provided that said Commission shall have full authority to cooperate with adjoining states in the regulation and issuance of fishing licenses in rivers or lakes within the counties enumerated in Section 1 hereof that are or may be boundary lines between Texas and adjoining states.

#### **Suits to test the validity**

Sec. 12. The Game, Fish and Oyster Commission is hereby expressly given the power and authority to review its own orders and to modify or revise the same as it shall find the facts to warrant. Any suit that may be filed to test the validity of this Act as well as any proclamation, order,

rule or regulation of the Commission, passed pursuant to this Act, must be brought in Gray County, Texas, and not elsewhere. Such suit shall be advanced by trial and determined as quickly as possible. In all such trials the burden of proof shall be upon the party complaining of such law, proclamation, rule or regulation to show it is invalid.

#### **Affidavits and false swearing**

Sec. 13. Any game and fish warden of said counties enumerated in Section 1 hereof is hereby authorized to take the affidavit of any person concerning or involving violation of any rule, regulation or order of the Commission promulgated under the provisions of this Act, and for such purpose when requested by a game warden to give affidavit concerning any facts within such person's knowledge as to violation of any Commission rule or regulation; provided no person shall be required to make affidavit of any fact that might incriminate the person making such affidavit. Any person who, in making an affidavit as authorized and provided in this Act, shall knowingly make a false affidavit of fact, shall be deemed guilty of false swearing and punished in accordance with the provisions of Article 310, Penal Code, 1925.

#### **Penalty**

Sec. 14. (a) Any person who shall violate any provision of this Act, or any person who shall violate any proclamation, order, rule or regulation issued by the Game, Fish and Oyster Commission under the provisions of this Act, shall be deemed guilty of misdemeanor, and upon conviction therefor shall be fined in a sum not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars. Each game bird, game animal, fur-bearing animal, fresh water fish taken or possessed in violation of this Act or of any proclamation, order, rule or regulation issued by said Game, Fish and Oyster Commission, shall constitute a separate offense.

(b) Any person convicted of violating this Act or any proclamation, order, rule or regulation of the Game, Fish and Oyster Commission under the provisions of this Act relating to fishing in any manner, shall automatically forfeit his fishing license for the remainder of the license year and he likewise forfeits his right to fish for such period; or, if convicted of violation of this Act or any proclamation, order, rule or regulation of the Game, Fish and Oyster Commission relating to hunting, shall automatically forfeit his hunting license for the remainder of the license year and shall likewise forfeit his right to hunt for such period.

(c) Any person convicted of violation of this Act or any proclamation, order, rule or regulation of the Game, Fish and Oyster Commission under the provisions of this Act relating to fur-bearing animals, shall automatically forfeit his trapping or dealer's license for the remainder of the license year and shall likewise forfeit his right to trap or act as a dealer for such period.

(d) No person who has automatically forfeited his license under this Act shall be entitled to purchase or receive from said Commission, or any of its authorized agents, a similar license for such period; and it shall be unlawful for such person to purchase or possess another such license for such period. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than One Hundred (\$100.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

#### **Wildlife resources defined**

Sec. 15. For the purpose of this Act, the wildlife resources of the counties enumerated in Section 1 hereof are defined to be all the game



birds and game animals, fur-bearing animals of all kinds, collared Peccary, commonly called Javelina, fresh water fish of all kinds.

**Repealing clause**

Sec. 16. All laws and parts of laws, both general and special, prescribing an open season or period of time when it shall be lawful to take or kill any of the wildlife resources of the counties enumerated in Section 1 hereof, together with all laws prescribing a closed season for such killing or taking, as well as all laws or parts of laws, general and special, providing for open waters or closed waters, and all laws or parts of laws, general and special, prescribing or limiting the method or means or manner in which any of the wildlife resources of said counties are taken, be and the same are hereby repealed. Any and all laws, general and special, in conflict with the provisions of this Act, are likewise hereby repealed to the extent of such conflict only.

**Effective date of Act**

Sec. 17. This Act shall be in force and effect from and after September 1, 1950.

**Saving clause**

Sec. 18. It is hereby declared to be the legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any section, word, clause, sentence, or part of this Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence or part thereof; and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause or part thereof; 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 section, sentence, clause or part thereof may be declared invalid. Acts 1950, 51st Leg., 1st C.S., p. 100, ch. 36.

Emergency. Effective Sept. 1, 1950.

**TITLE 14—TRADE AND COMMERCE****CHAPTER ELEVEN—A—STORES AND MERCANTILE  
ESTABLISHMENTS**

**Art. 1111d. Operating stores or mercantile establishments without license unlawful**

**Additional license fee**

Sec. 5½. In addition to all other taxes, fees and license fees, an additional license fee is levied hereby for the years 1950 and 1951 on every person, agent, receiver, trustee, firm, corporation, association, or copartnership upon which a license fee is levied by Sections 5 or 5a of Chapter 400 Acts, First Called Session, Forty-fourth Legislature, as amended.

The payment of such additional license fee is subject to the same terms, conditions, obligations and penalties as is provided for the payment and collection of license fees levied in the aforesaid Section 5 and/or 5a of Chapter 400, Acts, First Called Session, Forty-fourth Legislature, as amended.

For the year 1950, the amount of such additional license fee shall be three-fourths (3/4) of ten per cent (10%) of the amount of the license fee levied for the year 1950 by the aforesaid Section 5 and/or 5a of Chapter 400, Acts, First Called Session, Forty-fourth Legislature, as amended. Such additional license fee for 1950 shall be paid before a renewal license is issued for the year 1951.

The additional license fees for 1951 shall be two-thirds (2/3) of ten per cent (10%) of the amount of the license fees levied for the year 1951 by the aforesaid Sections 5 and/or 5a of Chapter 400, Acts, First Called Session, Forty-fourth Legislature, as amended. The additional license fee shall be due and payable and shall be paid at the same time as the payment of the license fees for the year 1951, levied by the aforesaid Sections 5 and/or 5a of Chapter 400, Acts, First Called Session, Forty-fourth Legislature, as amended.

No license shall be issued for 1951 until the additional license fees levied herein have been paid. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XVIII, § 1.

Emergency. Effective Feb. 28, 1950.

**TITLE 15—OFFENSES AGAINST THE PERSON**

<b>Chap.</b>	<b>Sec.</b>
17A. Mobs and Lynching [New] - - - - -	1260a

**CHAPTER ONE—ASSAULT AND ASSAULT AND BATTERY**

**Art.**  
 1146a. Throwing missiles at athletic con-  
 tests or games [New].

**Art. 1146a. Throwing missiles at athletic contests or games**

Section 1. It shall be unlawful for any person to throw a bottle, cushion, rock or other missile while such person is in attendance at any football, baseball or other athletic contest or game.

Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor amounting to a breach of the peace, and shall upon conviction be fined not less than Five (\$5.00) Dollars, nor more than Twenty-five (\$25.00) Dollars. Acts 1949, 51st Leg., p. 821, ch. 441.

Emergency. Effective June 19, 1949.

**Title of Act:**

An Act making it unlawful for any person in attendance at any football, baseball or other athletic contest or game to throw

a bottle, cushion, rock or other missile; prescribing a penalty for violation of this Act; and declaring an emergency. Acts 1949, 51st Leg., p. 821, ch. 441.

**CHAPTER TWO—AGGRAVATED ASSAULTS AND OTHER OFFENSES**

**Art. 1147. 1022, 601 Definition**

An assault or battery becomes aggravated when committed under any of the following circumstances:

(1) When committed upon an officer in the lawful discharge of the duties of his office, if it was known or declared to the offender that the person assaulted was an officer discharging an official duty.

(2) When committed in a Court of justice, or in any place of religious worship, or in any place where persons are assembled for the purpose of innocent amusement.

(3) When the person committing the offense goes into the house of a private family and is there guilty of an assault and battery.

(4) When committed by a person of robust health or strength upon one who is aged or decrepit.

(5) When the instrument or means used is such as inflicts disgrace upon the person assaulted, as an assault or battery with a whip or cowhide.

(6) When a serious bodily injury is inflicted upon the person assaulted.

(7) When committed with deadly weapons under circumstances not amounting to an intent to murder or maim.

(8) When committed with premeditated design, and by the use of means calculated to inflict great bodily injury.

(9) When committed by an adult male upon the person of a female or child or by an adult female upon the person of a child.

This sub-section (9) of Section 1 shall not apply to the act of a person who fondles the sexual parts or places, or attempts to place his

or her hand or hands upon or against the sexual parts of a male or female under the age of fourteen (14) years, or who fondles or attempts to fondle, or places or attempts to place his or her hand or hands, or any part of his or her hands upon the breast of a female under the age of fourteen (14) years, which acts are elsewhere made unlawful. As amended Acts 1950, 51st Leg., 1st C.S., p. 51, ch. 11, § 1.

Emergency. Effective March 10, 1950.

Section 3 of the act of 1950 read as follows: "If any section, sub-section, paragraph or phrase of this Act be declared invalid, it shall not affect the validity of the

balance of this Act, and it is the declared intention of the Legislature that it would have passed the balance of said Act without such portion as may be declared invalid."

**Art. 1148. 1024, 603 Punishment**

The punishment for an aggravated assault or battery shall be a fine not less than Twenty-five Dollars (\$25) nor more than One Thousand Dollars (\$1,000), or imprisonment in jail not less than one (1) month nor more than two (2) years, or both such fine and imprisonment. As amended Acts 1950, 51st Leg., 1st C.S., p. 51, ch. 11, § 2.

**CHAPTER SEVENTEEN A—MOBS AND LYNCHING**

Art.  
1260a. Offenses and punishment.

**Art. 1260a. Offenses and punishment**

**Lynching in first degree**

Section 1. Any collection of persons assembled without authority of law for the purpose and with the intention of committing an assault and battery upon any person or who shall form the intention of committing an assault and battery after so assembling upon any person shall be deemed a "mob" for the purpose of this Act; and any act of violence by a mob upon the body of any person which shall result in the death of such person, shall constitute lynching in the first degree within the meaning of this Act; and each person constituting such mob committing such lynching shall be deemed guilty of lynching in the first degree and each and every person composing a mob and any and every accessory thereto by which any person is lynched in the first degree, shall upon conviction be punished by death or confinement in the penitentiary for life or for any term of years not less than five (5).

**Lynching in second degree**

Sec. 2. Any collection of persons assembled without authority of law for the purpose and with the intention of committing an assault and battery upon any person, or who shall form the intention of committing an assault and battery after so assembling upon any person shall be deemed a "mob" for the purpose of this Act, and any act of violence by a mob upon the body of any person, which shall not result in the death of such person, shall constitute a lynching in the second degree within the meaning of this Act, and any and every person composing a mob which shall commit assault and battery or which shall unlawfully shoot, stab, cut, maim, or wound any person or by any means cause him bodily injury with intent to injure, maim, stab, disfigure, or kill him, if said assault shall not result in the death of the assaulted person, shall be guilty of lynching in the second degree and upon conviction shall be confined in the penitentiary for not less than one (1) year nor more than ten (10) years.

**District attorney's duties; assistance**

Sec. 3. It shall be the duty of the District Attorney for any county in which a lynching, either of the first or second degree, may occur to promptly and diligently endeavor to ascertain the identity of the persons who in any way participated therein or who composed the mob perpetrating the same and have them apprehended and to promptly proceed with the prosecution of any and all persons so found, to the end that such offenders may not escape punishment. The District Attorney may be assisted in all such endeavors and prosecutions by the Attorney General or other prosecutors designated by the Governor for the purpose.

**Civil liability**

Sec. 4. Nothing herein contained shall be construed to relieve any member of any such mob from civil liability to the victim or to the personal representative of the victim of such lynching.

**Act cumulative**

Sec. 5. Nothing in this Act shall repeal any existing laws relating to offenses against the person and nothing herein shall repeal existing laws relating to unlawful assemblies and rioting but the provisions of this Act shall be cumulative to these Statutes. Acts 1949, 51st Leg., p. 1131, ch. 582.

Effective 90 days after July 6, 1949, date of adjournment.

## TITLE 17—OFFENSES AGAINST PROPERTY

### CHAPTER THREE—MALICIOUS MISCHIEF

Art.

1333a. Operating motor boat while intoxicated [New].

#### **Art. 1333A. Operating motor boat while intoxicated**

Any person who operates a motor boat on any bay, lake, river, or other body of water in this State, while such person is intoxicated or under the influence of intoxicating liquor, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Five (\$5.00) Dollars nor more than One Hundred (\$100.00) Dollars. Added Acts 1949, 51st Leg., p. 822, ch. 442, § 1.

Emergency. Effective June 19, 1949.

#### **Art. 1370. 1249 Local option "Horse Law"**

Whoever shall knowingly permit any horses, mules, jacks, jennets, or cattle to run at large in any territory in this State where the provisions of the laws of this State have been adopted prohibiting any of such animals from running at large shall be fined not less than Five Dollars (\$5) nor more than Two Hundred Dollars (\$200). As amended Acts 1949, 51st Leg., p. 356, ch. 180, § 1.

Emergency. Effective May 13, 1949.

#### **Art. 1377. [1235] Entering inclosed land to hunt or fish**

Section 1. It shall be unlawful for any person to enter upon the inclosed land of another without consent of the owner, proprietor or agent in charge thereof, and therein hunt with firearms or therein catch or take or attempt to catch or take any fish from any pond, lake, tank, or stream, or therein camp, or in any manner depredate upon the same. By "inclosed lands" is meant such lands as are in use for agriculture or grazing purposes or for any other purpose, and inclosed by any structure for fencing either of wood or iron or combination thereof, or wood and wire, or partly by water or stream, canyon, brush, rock or rocks, bluffs or island. Proof of ownership or lease may be made by parol testimony.

Sec. 2. For the first conviction for a violation of Section 1 of this Act, the punishment shall be a fine not more than Two Hundred Dollars (\$200) and by forfeiture of his hunting license and right to hunt in the State of Texas for a period of one (1) year from the date of his conviction.

If it be shown on the trial of the case involving the violation of Section 1 of this Act that the defendant has been once before convicted of the same offense, he shall, on his second conviction, be punished by a fine not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000) and by forfeiture of his hunting license and right to hunt in the State of Texas for a period of two (2) years from the date of his conviction.

If it be shown upon the trial of a case involving a violation of Section 1 of this Act that the defendant has two times before been convicted of the same offense, he shall, on his third conviction, be punished by confinement in the county jail for not less than thirty (30) days nor more than one year and by fine not less than Five Hundred Dollars (\$500)

nor more than One Thousand Dollars (\$1,000) and by forfeiture of his hunting license and right to hunt in the State of Texas for a period of three (3) years from the date of his conviction.

Provided that all fines collected under the provisions of this Act assessed on the arrest of any State Game Warden shall be paid into the Special Game Fund of the State of Texas.

Sec. 3. Any person found upon the inclosed lands of another in violation of Section 1 hereof shall be subject to arrest by any peace officer or any State Game Warden, and such arrests may be made without warrant of arrest. As amended Acts 1949, 51st Leg., p. 368, ch. 191, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

## TITLE 18—LABOR

## CHAPTER SIX—WORKMEN AND FIREMEN

**Art. 1583—2. Compensation of firemen and policemen in certain cities; adoption of law in cities of 10,000 to 40,001—Hours of Work or Duty**

**Section 1.** It is hereby provided that in any city of this State of not less than one hundred seventy-five thousand (175,000) inhabitants according to the last preceding Federal Census, or any succeeding Federal Census, each member of the Fire Department and of the Police Department shall receive and be paid the sum of not less than Two Hundred Twenty (\$220.00) Dollars per month, and the additional sum of Ten (\$10.00) Dollars per month for each five (5) years of service in such Police or Fire Department up to and including twenty-five (25) years of service in such Department, as a minimum wage for the services so rendered.

It is provided further, that in all cities in this State with inhabitants thereof between ten thousand (10,000) and one hundred seventy-five thousand (175,000) according to the last preceding Federal Census, each member of the Fire Department and of the Police Department shall receive and be paid the following sums per month according to the population of each such city of ten thousand (10,000) or more and up to forty thousand and one (40,001), such salary shall be One Hundred Sixty-five (\$165.00) Dollars per month minimum; in all such cities with inhabitants of forty thousand and one (40,001) to one hundred thousand and one (100,001) inhabitants, such minimum salaries shall be One Hundred Ninety-five (\$195.00) Dollars per month; and in all such cities from one hundred thousand and one (100,001) to one hundred seventy-five thousand (175,000) inhabitants, such minimum salaries shall be Two Hundred Ten (\$210.00) Dollars per month; and in all such cities the additional sum of Ten (\$10.00) Dollars per month for each five (5) years of service in such Fire or Police Department up to and including fifteen (15) years of service in such Department as a minimum wage for the services so rendered; with the further provision that in all cities with ten thousand (10,000) or more inhabitants and up to forty thousand and one (40,001) inhabitants shall only receive the additional sum of Five (\$5.00) Dollars per month for each five (5) years of service in such Fire or Police Department up to and including fifteen (15) years of service in such Department, as a minimum wage for the services so rendered; provided, however, that the provisions of this Act shall not apply to the cities of ten thousand (10,000) or more inhabitants and up to forty thousand and one (40,001) inhabitants, unless at an election which shall be called upon a petition signed by qualified voters in said city in number not less than ten (10%) per cent of the total number voting in the last preceding city election; provided, however, that said petition must be presented within sixty (60) days from the effective date of this Act; and provided further, that subject to the foregoing provisions, the election shall be had within ninety (90) days from the effective date of this Act, to be held in accordance with the State laws and the city charter, at which the adoption or rejection of this Act shall be submitted at such election. If, at said election, a majority of the people voting shall favor the adoption of the provisions of the Act, it shall thereafter become the duty of said governing body to put into effect the provisions of this Act. In the event a majority of the voters



in any such election reject the adoption of this Act, then such matter shall not be re-submitted to the electors for a period of one (1) year; and thereafter, the same may be re-submitted upon a petition signed by qualified voters in said city in number not less than five (5%) per cent of the total number voting in the last preceding city election, upon the filing of which the city governing body shall again re-submit the question of the adoption or rejection of this Act. Provided, in cities having a population of not less than ten thousand (10,000) inhabitants, nor more than forty thousand (40,000) inhabitants according to the last preceding Federal Census, which are governed by the provisions of this Act, the governing body of such city may call an election and submit to the qualified voters of such city whether it shall be unlawful to require or permit any member of the Fire Department to work or be on duty more than seventy-two (72) hours in any one calendar week and no more than one hundred forty-four (144) hours in any two (2) calendar weeks in the discharge of his duties.

Sec. 1-a. The provisions of this Act shall not apply to those cities which are paying on the effective date hereof salaries in excess of the minimums provided for herein so long as such cities continue to pay the minimum salaries designated in Section 1 hereof.

Sec. 2. Any city official, or officials, who have charge of the Fire Department or Police Department, or who are responsible for the fixing of the wages herein provided in any such city, who violate any provisions 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 such city official, or officials, shall cause or permit any violation of this Act shall constitute and be a separate offense.

Sec. 3. Provided further, that all municipal governments affected by this Act shall, within thirty (30) days following enactment, set up classifications in Police and Fire Departments providing for duties under such classifications and specifying salary for each classification; and thereafter any member of any Fire and Police Department who is called upon to perform the duties under any such classification shall be paid the salary provided therefor for such period as he performs such duties. As amended Acts 1949, 51st Leg., p. 951, ch. 522, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

## CHAPTER SEVEN—EMPLOYMENT AGENTS

Art.

1593a. Repealed.

Art. 1593a. Repealed. Acts 1949, 51st Leg., p. 434, ch. 234, § 15. Eff. May 20, 1949

Article derived from Acts 1943, 48th Leg., p. 86, ch. 67, § 13 related to certain prohibited acts and their punishment.

## TITLE 19—MISCELLANEOUS OFFENSES

Chap.	Art.
14. Wells, Cisterns and Holes - - - - -	1721

### CHAPTER THREE—TRUSTS AND CONSPIRACIES AGAINST TRADE

Pooling and cooperative agreements in secondary oil and gas operations, see Vernon's Ann.Civ.St., art. 6008b.

### CHAPTER TWELVE—COMMERCIAL FERTILIZER

#### Art. 1712. Inspection fees

All firms, corporations or persons engaged in the manufacture or sale of commercial fertilizers, hereinafter referred to as the guarantors of commercial fertilizers, shall pay an inspection fee of Twenty-five cents (25¢) per ton of two thousand (2,000) pounds of all commercial fertilizers which have been registered in compliance with the requirements of Article 1710 of this Chapter and sold or distributed for sale in this State in order to entitle the same to inspection and delivery. Payment of the inspection fee shall be made to the State Chemist at his office in College Station, Texas, on the basis of and shall accompany tonnage reports submitted quarterly by the guarantors of such commercial fertilizers. These reports shall be made under oath on forms supplied by the State Chemist and shall set forth the amount and kind of each fertilizer sold or distributed for sale in Texas during the preceding three (3) months. Before any commercial fertilizer may be registered in this State in compliance with the requirements of Article 1710 of this Chapter, the guarantor shall file with the State Chemist an agreement to keep such records as are necessary to show accurately the tonnage and kind of each commercial fertilizer sold or distributed for sale, and shall grant the State Chemist or his authorized representative the right to examine such records to verify the statement of tonnages. Tonnage reports and inspection fees shall be due and payable on the first day of December, the first day of March, the first day of June, and the first day of September of each year. If the tonnage report is not filed and the payment of inspection fees is not made within twenty (20) days after the date due, a collection fee amounting to ten per cent (10%) of the amount due shall be assessed against the guarantor, and the amount of fees due shall constitute a debt and become the basis of a judgment against the guarantor. If the tonnage report is not filed and the payment of fees is not made within thirty (30) days after the date due, or if the report be false, fifteen (15) days after due written notice and opportunity for hearing have been given, the State Chemist may cancel the registration of commercial fertilizers registered by the delinquent guarantor. Any information as to the amount of fertilizer sold and business practices of any guarantor obtained from tonnage reports or from inspection of records and books shall remain confidential and shall not be revealed by the State Chemist or his employees to the public, persons or other guarantors. Nothing in this Article shall interfere with fertilizers passing through this State in transit; nor shall it apply to the delivery of fertilizer materials in bulk to fertilizer

factories for manufacturing purposes only. As amended Acts 1949, 51st Leg., p. 342, ch. 170, § 2.

Emergency. Effective May 13, 1949.

Section 1 of the amendatory act of 1949 amends Vernon's Ann.Civ.St. art. 97, and section 3 read as follows: "All laws and parts of laws in conflict herewith are hereby repealed in so far as they are in conflict; 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."

## CHAPTER 14.—WELLS, CISTERNS AND HOLES [NEW]

Art.

1721. Covering and plugging.

### Art. 1721. Covering and plugging

Section 1. It shall be unlawful for the owner or operator of any well or cistern, as much as ten (10) feet deep, and not less than ten (10) inches nor more than six (6) feet in diameter to fail to keep it entirely covered at all times with a covering capable of sustaining weight of not less than two hundred (200) pounds, except when said well or cistern is in actual use by the owner or operator thereof.

Sec. 1a. It shall be unlawful for any person who shall drill, dig or otherwise create, or cause to be drilled, dug or otherwise created, any well or hole of as much as ten (10) feet in depth and less than ten (10) inches in diameter to abandon said well or hole without first completely filling said well or hole from its total depth to the surface or plugging the same with a permanent type plug at a depth of not less than ten (10) feet from the surface and completely filling the same from said plug to the surface.

This Act does not modify or repeal any existing laws.

Sec. 2. Any person violating the provisions of this Act shall upon conviction be guilty of a misdemeanor and be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500). Acts 1949, 51st Leg., p. 509, ch. 281.

Emergency. Effective May 27, 1949.

#### Title of Act:

An Act to require certain wells and cisterns to be covered at all times when not in actual operation; making it unlawful to abandon any well or hole as much as ten

(10) feet in depth and less than ten (10) inches in diameter without filling or plugging said well or hole; providing the Act does not modify or repeal any existing law; providing penalty for violation of provisions of the Act; and declaring an emergency. Acts 1949, 51st Leg., p. 509, ch. 281.

THE  
CODE OF CRIMINAL  
PROCEDURE

---

**TITLE 2—COURTS AND CRIMINAL JURISDICTION**

ACTS CREATING CRIMINAL DISTRICT COURTS AND SIMILAR COURTS AND AFFECTING SUCH COURTS, AND DECISIONS THEREUNDER

**JEFFERSON COUNTY CRIMINAL  
DISTRICT COURT**

Art.

52—160b. Criminal Judicial District of Jefferson County [New].

**JEFFERSON COUNTY CRIMINAL DISTRICT COURT**

**Art. 52—160b. Criminal Judicial District of Jefferson County**

There is hereby created and established a Criminal Judicial District of Jefferson County, Texas, to be composed of the County of Jefferson, State of Texas alone, and which District is coextensive with the territorial boundaries and limits of Jefferson County, Texas.

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Jefferson County, Texas, at the regular election in November, 1950, and at the regular November election each two (2) years thereafter, an attorney for said District who shall be styled the "Criminal District Attorney of Jefferson County" and who shall hold his office for a period of two (2) years and until his successor is elected and qualified. The said Criminal District Attorney of Jefferson County shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State of other District Attorneys.

Sec. 3. It shall be the duty of said Criminal District Attorney of Jefferson County, or his assistants, as herein provided, to be in attendance upon each term and all sessions of the Criminal District Court of Jefferson County and of all sessions and terms of all the inferior Courts of Jefferson County held for the transaction of criminal business, and to exclusively represent the State of Texas in all matters pending before said Courts and to represent Jefferson County in all matters pending before such Courts and any other Court where Jefferson County has pending business of any kind, matter or interest. The Criminal District Attorney of Jefferson County shall have and exercise, in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within such Criminal Judicial District of Jefferson County, Texas, as are by law now conferred, or which may hereafter be conferred upon District and County Attorneys in the various counties and Judicial Districts of this State. He shall collect such fees, commissions, and prerequisites as are now, or may hereafter be provided by law for similar services rendered by District and County Attorneys of this State.

Sec. 4. The Criminal District Attorney of Jefferson County shall be commissioned by the Governor and shall receive as salary and compensation the following and no more: A salary of Five Hundred Dollars (\$500) from the State of Texas, as provided in the Constitution of the State of Texas for the salary of District Attorneys, and a sum of not less than Seven Thousand Four Hundred

Dollars (\$7,400) per annum to be paid out of the Officers' Salary Fund of Jefferson County, if adequate; if inadequate, the Commissioners Court shall transfer necessary funds from the General Fund of the County to the Officers' Salary Fund.

Sec. 5. The Criminal District Attorney of Jefferson County, for the purpose of conducting the affairs of this office, and with the approval of the Commissioners Court, shall be and is hereby authorized to appoint nine (9) assistants, and fix their salary rate as follows: Said assistants shall receive not less than Four Thousand Two Hundred Dollars (\$4,200) per annum. The Criminal District Attorney of Jefferson County may employ three (3) investigators, who shall receive not less than Three Thousand Dollars (\$3,000) per annum each. He may employ two (2) court reporters and fix their salaries at not less than Two Thousand Four Hundred Dollars (\$2,400) per annum each. He may employ two (2) stenographers and fix their salaries at not less than One Thousand Eight Hundred Dollars (\$1,800), per annum each. He may employ one (1) chief clerk and fix his salary at not less than Four Thousand Two Hundred and Fifty Dollars (\$4,250) per annum. All such salaries mentioned in Section 5 shall be payable from the Officers' Salary Fund, if adequate; if inadequate, the Commissioners Court shall transfer necessary funds from the General Fund of the county to the Officers' Salary Fund. In addition to the salaries provided for the investigators herein, each of such investigators may be allowed a sum not to exceed Fifty Dollars (\$50) per month for repair and maintenance expense for automobile owned and maintained by such investigators and used by him in investigation of crime; such allowance to be paid monthly by the county upon warrants drawn upon the Officers' Salary Fund or the General Fund, as the case may be, upon written claim of such investigator, showing that said automobile was in official use; and such claim shall bear the approval of the Criminal District Attorney, and shall be paid as provided by law for other claims.

Sec. 6. Should such Criminal District Attorney be of the opinion that the number of assistants or stenographers above provided is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his position, with the advice and approval of the Commissioners Court he may appoint additional assistants and stenographers or other employees, as hereinafter limited, and fix their salaries as follows: One (1) additional Assistant Criminal District Attorney, with a salary not less than Four Thousand Two Hundred Dollars (\$4,200) per annum; one (1) additional Assistant Criminal District Attorney with a salary not less than Three Thousand Dollars (\$3,000) per annum. He may employ two (2) additional stenographers and fix their salaries at not less than One Thousand Eight Hundred Dollars (\$1,800) per annum each.

Sec. 7. The Assistant Criminal District Attorneys of Jefferson County and investigators, when so appointed shall take the Constitutional oath of office and the said Criminal District Attorney of Jefferson County and his assistants shall have the exclusive right, and it shall be their duty, to represent the State of Texas in all criminal cases pending in any and all of the Courts of Jefferson County, Texas, except in the City Courts of the City of Beaumont and Port Arthur. Said Assistant Criminal District Attorneys of Jefferson County are hereby authorized to administer oaths, file information, examine witnesses before the Grand Jury and generally perform any duty devolving upon the Criminal District Attorney of Jefferson County and exercise any power, and to perform any duty conferred by law upon said Criminal District Attorney of Jefferson County.

Sec. 8. The duly elected and qualified County Attorney of Jefferson County, now acting, shall become the Criminal District Attorney as herein enumerated, from and after the effective date of this Act. He shall perform all of the duties of the Criminal District Attorney as herein enumerated and be known as the Criminal District Attorney of Jefferson County until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Jefferson County is abolished from and after the effective date of this Act. Acts 1949, 51st Leg., p. 88, ch. 53.

Emergency. Effective March 24, 1949.

Section 9 of the Act of 1949 read as follows: "If any part or section of this Act shall be held unconstitutional or invalid, for any reason, the remainder of the Act

shall, nevertheless, be in full force and effect."

Section 10 repealed all conflicting laws and parts of laws.

## TITLE 7—AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

### CHAPTER ONE—ORGANIZATION OF THE GRAND JURY

<p>Art. 367f. Bailiffs in counties of 300,000 to 400,000; monthly car allowance [New].</p>	<p>Art. 367g. Bailiffs in counties with nine district courts; duties; terms; compensation [New].</p>
--	--

**Art. 367f. Bailiffs in counties of 300,000 to 400,000; monthly car allowance**

Section 1. The Commissioners Court shall have the right and the authority to provide for and establish a monthly car allowance for the grand jury bailiff or bailiffs in their respective counties.

Sec. 1A. This Act shall apply to counties having a population of not less than three hundred thousand (300,000) nor more than four hundred twenty-five thousand (425,000). Acts 1949, 51st Leg., p. 211, ch. 116.

<p>Emergency. Effective May 3, 1949. Title of Act: An Act to permit the Commissioners Court in certain counties to establish an</p>	<p>automobile car allowance for Grand Jury Bailiffs; and creating an emergency. Acts 1949, 51st Leg., p. 211, ch. 116.</p>
---	--

**Art. 367g. Bailiffs in counties with nine district courts; duties; terms; compensation**

Section 1. In all counties having nine (9) or more District Courts, a majority of the District Judges of each such county may appoint a bailiff to be in charge of the central jury room and the general panel. In such counties, if the District Judges of such county do not appoint a bailiff to be in charge of the central jury room and the general panel, the sheriff of that county shall perform all the duties in connection with the central jury room and the general panel, as provided by law. In any or all of such counties in which the District Judges thereof appoint a bailiff in charge of the central jury room and the general panel, the sheriff of any such county shall not assign a deputy to the central jury room as is now provided by law. The bailiff appointed by the said District Judges is hereby authorized to summon jurors whose names have been drawn from the jury wheel, and to serve notices upon absent jurors as directed by the District Judge having supervision and control of the general panel.

Said bailiff so appointed shall look after the said panel and perform such duties in connection with the general supervision of the central jury room and the general panel as is required by the District Judges of such county. He shall serve for a term of two (2) years from January 1st of the odd year, and his salary shall be set by the Commissioners Court upon the recommendation of the District Judges.

Sec. 2. In counties having nine (9) or more District Courts, the jurors in each of such counties may be summoned by the bailiff in charge of the central jury room, and the general panel of such county or the sheriff of such county, as the District Judges thereof may direct. Such service on the jurors may be made verbally in person, by registered mail, by ordinary mail or in any other manner or by any other method as may be determined upon the District Judges of such county. Jurors so selected and summoned for service on the central jury panel shall serve in

criminal as well as civil cases, and no additional service shall be required in criminal cases. Acts 1950, 51st Leg., 1st C.S., p. 4, ch. 7.

Emergency. Effective March 3, 1950.

**Title of Act:**

An Act providing that in certain counties a majority of the District Judges may appoint a bailiff in charge of the central jury room and general panel and in such cases that the sheriff shall not assign a deputy to the central jury room; providing for such bailiff having authority to summon jurors and serve notices upon absent ju-

rors; providing for the duties of such bailiff, his term of office and salary; providing for summoning of jurors in such manner as directed by the District Judges, for the service of such jurors in criminal as well as civil cases and that no additional service shall be required in criminal cases; and declaring an emergency. Acts 1950, 51st Leg., 1st C.S., p. 4, ch. 7.

## TITLE 8—TRIAL AND ITS INCIDENTS

### CHAPTER TWO—SPECIAL VENIRE IN CAPITAL CASES

#### Art. 601—a. Special venire in counties having city of 231,500

In counties having therein a city of at least two hundred and thirty-one thousand, five hundred (231,500) population as shown by the last preceding Federal Census, the Judge of the Court having jurisdiction of a capital case in which a motion for a special venire has been made, shall grant or refuse such motion for a special venire and upon such refusal require the case to be tried by the regular jurors summoned for service, and such additional talesmen as may be ordered by the Court, in the Courts of such county where as many as one hundred (100) jurors have been summoned in such county for regular service for the week in which such capital case is set for trial, but the Clerk of such Court shall furnish the defendant or his counsel a list of the persons summoned for jury service for such work upon application therefor, and it is further provided that all laws and parts of laws in conflict with the provisions of this bill be and the same are hereby repealed to the extent of such conflict only. As amended Acts 1949, 51st Leg., p. 1372, ch. 623, § 1.

Effective 90 days after July 6, 1949, date of adjournment.

**TITLE 9—PROCEEDINGS AFTER VERDICT****CHAPTER FOUR—EXECUTION OF JUDGMENT****2. ENFORCING JUDGMENT IN CAPITAL CASES****Art. 807.. Return of warden**

When the execution of sentence is suspended or respited to another date, same shall be noted on the warrant and on the arrival of such date, the Warden shall proceed with such execution; and in case of death of any condemned person before the time for his execution arrives, or if he should be pardoned or his sentence be commuted by the Governor, no execution shall be had; but in such cases, as well as when the sentence is executed, the Warden shall return the warrant and certificate with a statement of any such act and his proceedings endorsed thereon, together with a statement showing what disposition was made of the dead body of the convict, to the Clerk of the Court in which the sentence was passed, who shall record the warrant and return in the minutes of the Court. As amended Acts 1949, 51st Leg., p. 536, ch. 298, § 1.

Emergency. Effective June 1, 1949.

**Art. 809. 891, 869 Body of convict**

The body of a convict who has been legally executed shall be embalmed immediately and so directed by the General Manager of the Texas Prison System. If the body is not demanded or requested by a relative or bona fide friend within ten (10) days from date of execution, including the day of execution, then it shall be delivered to the Anatomical Board of the State of Texas, if requested by the Board. If the body is requested by a relative, bona fide friend, or the Anatomical Board of the State of Texas, such recipient shall pay a fee of not to exceed Twenty-five (\$25.00) Dollars to the mortician for his services in embalming the body, for which the mortician shall issue to the recipient a written receipt. When such receipt is delivered to the Warden, Assistant Warden, or General Manager of the Texas Prison System, he shall deliver the body to the party named therein or his authorized agent. If the body is not delivered to a relative, bona fide friend, or the Anatomical Board of the State of Texas, the General Manager of the Texas Prison System shall cause the body to be decently buried, and the fee for embalming shall be paid by the county in which the indictment which resulted in conviction was found. As amended Acts 1949, 51st Leg., p. 536, ch. 298, § 2.

Emergency. Effective June 1, 1949.



**TITLE 15—COSTS IN CRIMINAL ACTIONS****CHAPTER THREE—COSTS PAID BY COUNTIES****Art. 1052. [1154–1155] Fees of judge and justice of the peace**

Five Dollars (\$5) shall be paid to the County Judge or Judge of the Court at Law and Two Dollars and Fifty Cents (\$2.50) shall be paid to the Justice of the Peace for each criminal action tried and finally disposed of before him. Provided, however, that in all counties having a population of twenty thousand (20,000) or less the Justice of the Peace shall receive a trial fee of Three Dollars (\$3). Such Judge or Justices shall present to the Commissioners Court of his county at a regular term thereof a written account specifying each criminal action in which he claims such fee certified by such Judge or Justice to be correct and filed with the County Clerk. The Commissioners Court shall approve such account for such amounts as they find to be correct and order a draft to be issued on the County Treasurer in favor of such Judge or Justice for the amount due said Judge or Justice from the county. Provided, however, that the fees provided herein shall be paid by the defendant in cases in which a conviction is held. The Commissioners Court shall not however pay any account or trial fees in any case tried and in which an acquittal is had unless the State of Texas was represented in the trial of said cause by the County Attorney or his assistant, criminal District Attorney or his assistant and the certificate of said Attorney is attached to said account certifying to the fact that said cause was tried, and the State of Texas was represented, and that in their judgment there was sufficient evidence in said cause to demand a trial of the same. All fees provided herein which are paid to officers who are compensated on a salary basis shall be paid into the Officers Salary Fund. As amended Acts 1949, 51st Leg., p. 917, ch. 496, § 1.

Emergency. Effective June 29, 1949.

Sections 2 and 3 of the amendatory act of 1949 read as follows:

"Sec. 2. If any Section, subsection, sentence, phrase or word of this Act shall be held to be invalid, such invalidity shall not affect the remaining portions of this

Act and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity.

"Sec. 3. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict."

# TABLE OF SESSION LAWS

References are to Civil Statutes unless otherwise indicated.

**1925 (39th Leg.) Regular Session**

Ch.	P.	Sec.	Art.
5	7	51, 52	8263h

**1931 (42nd Leg.) Regular Session**

Ch.	P.	Sec.	Art.
73	111	1½	7047b

**1933 (43rd Leg.) Regular Session**

Ch.	P.	Sec.	Art.
162	409	2A	7057a

**1935 (44th Leg.) Regular Session**

Ch.	P.	Sec.	Art.
241	575	2a	7047c-1
241	575	26a	P.C. 131c-1
241	575	30a	7047c-1

**1935 (44th Leg.) First Called Session**

Ch.	P.	Sec.	Art.
400	1589	5½	P.C. 1111d

**1935 (44th Leg.) Second Called Session**

Ch.	P.	Art.	Sec.	Art.
467	1795	1	5(a)	P.C. 666-5a
467	1795	1	15½	P.C. 666-15½
467	1795	1	21½	P.C. 666-21½
467	1795	1	36½	P.C. 666-36½
467	1795	1	51	P.C. 666-51a
467	1795	1	52	P.C. 666-52
467	1795	1	53	P.C. 666-53
467	1795	1	54	P.C. 666-54
467	1795	1	55	P.C. 666-55
467	1795	1	56	P.C. 666-56
467	1795	2	23A	P.C. 667-23a
467	1795	2	23¼	P.C. 667-23¼
467	1795	2	28	P.C. 667-28
467	1795	2	29	P.C. 667-29
467	1795	2	30	P.C. 667-30
467	1795	2	31	P.C. 667-31

**1937 (45th Leg.) Regular Session**

Ch.	P.	Sec.	Art.
167	329	1	2844, 2844a Repealed

**1939 (46th Leg.) Regular Session**

Page	Sec.	Art.
238	4A	P.C. 934b-1, § 4A

**1941 (47th Leg.) Regular Session**

Ch.	P.	Art.	Sec.	Art.
184	269	X	1½	7047l
184	269	XV	1½	7047m

Ch.	P.	Sec.	Art.
322	525	1c	P.C. 952l-11
514	832	1-26	6243e-1 Repealed

**1943 (48th Leg.) Regular Session**

Ch.	P.	Sec.	Art.
67	86	1-12	5221a-4 Repealed
67	86	13-16	P.C. 1593a Repealed
67	86	17-19	5221a-4 Repealed
67	86	20	P.C. 1593a Repealed
67	86	21	5221a-4 Repealed
76	105	1	3224 Repealed

Ch.	P.	Subch.	Art.	Art.
97	154	VII	7a	342-707a
368	645	1		199(114) note

**1945 (49th Leg.) Regular Session**

Ch.	P.	Sec.	Art.
26	37	8(1)	2815k
55	78		P.C. 934b-1 Repealed
80	117	1-7	4192a Repealed
309	507	1-5	5368b Repealed

**1947 (50th Leg.) Regular Session**

Ch.	P.	Sec.	Art.
42	54		6819a-4 Repealed
59	86	1	P.C. 934b-1, sec. 4a Repealed
59	87	2	P.C. 934b-1, sec. 10 Repealed

**1949 (51st Leg.) Regular Session**  
 Convened Jan. 11, 1949  
 Adjourned July 6, 1949

Ch.	P.	Sec.	Art.
4	4	1	4526
4	4	2	4526 note

References are to Civil Statutes unless otherwise indicated.

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
4	4	3	Emergency
6	6	1	694
6	6	2	Emergency
7	7	1	1970—114
7	7	2	1970—115
7	7	3	1970—122
7	7	4	1970—114 note
7	7	5	Emergency
9	9	1	1302, subd. 108
9	9	2	Emergency
11	11	1	P.C. 923II—1
11	11	2	Emergency
16	14	1	P.C. 879g—2a
16	14	2	P.C. 879g—2a note
16	14	3	Emergency
18	15	1	P.C. 880
18	15	2	Emergency
21	17	1	6184I
21	17	2	Emergency
23	21	1-4	2815g--39
23	21	5	Emergency
Ch.	P.	Art.	Art.
24	24	1	6243h
24	24	2	6243h—1
24	24	3, 4	6243h note
24	24	5	Emergency
Ch.	P.	Sec.	Art.
25	45	1-3	2815g—40
25	45	4	Emergency
27	47	1	5142a
27	47	2, 3	5142a note
27	47	4	Emergency
28	49	1, 2	3737d
28	49	3	3737d note
28	49	4	Emergency
29	50	1-3	2815g—41
29	50	4	Emergency
30	51	1, 2	7466f
30	51	3	7466f note
30	51	4-6	7466f
30	51	7	Emergency
31	59	1-5a	973a
31	59	6	Emergency
32	61	1-9	5142c—1
32	61	10	Emergency
33	63	1	5139
33	63	2	5139 note
33	63	3	Emergency
36	67	1, 2	2368f
36	67	3, 4	2368f note
36	67	5	Emergency
37	68	1-5	S280—2
37	68	6	Emergency
43	75	1, 2	6824 note
43	75	3	Emergency
44	76	1	199(85)
44	76	2-7	199(85) note
44	76	8	Emergency
45	78	1-8	P.C. 719e

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
45	78	9	Emergency
46	80	1-8	4477—2
46	80	9	Emergency
48	83	1	1934a—12
48	83	2	Emergency
51	85	1	7083a, § 4b
51	85	2	7083a, § 4b note
51	85	3	Emergency
52	86	1	2922f
52	86	2	2922f note
52	86	3	Emergency
53	88	1-8	C.C.P. 52—160b
53	88	9.1	C.C.P. 52—160b note
53	88	11	Emergency
54	90	1	3912e, § 13(b)
54	90	2	3912e, § 15(a)
54	90	3	Emergency
58	98	1-3	1702e
58	98	4	Repeal
58	98	5	Emergency
59	99	1	199(36)
59	99	2	Emergency
60	100	1, 2	2370a
60	100	3, 4	2370a note
60	100	5	Emergency
61	101	1	fol. 8197f note
62	106	1, 2	2688c
62	106	3	2688c note
62	106	4	Emergency
63	107	1	4447a
63	107	2	Emergency
64	108	1	1327a
64	108	2	Emergency
66	110	1	5142b, § 1
66	110	2	5142b, § 15
66	110	3	5142b, § 1 note
66	110	4	Emergency
67	112	1-4	3886f
67	112	5	3886f note
67	112	6	Emergency
68	113	1-11	P.C. 934b—2
68	113	12	P.C. 934b—repealed
68	113	13	P.C. 934b—2 note
68	113	14	Emergency
70	117	1	P.C. 827b, § 2A
70	117	2-4	P.C. 827b, § 2A note
70	117	5	Emergency
74	122	1-3	2815h—5
74	122	4	Emergency
75	124	1	6203c
75	124	2	6203c note
75	124	3	Emergency
76	125	1	6163m—2 note repealed
78	127	1	2615d
78	127	2	Emergency
81	132	1-16	4764c
81	132	17	Emergency
82	137	1	4000

1949 (51st Leg.) Regular Session

—Cont'd

Ch.	P.	Sec.	Art.
82	137	2	Emergency
84	139	1-4	2744e-5
84	139	5	Emergency
85	141	1, 2	4494k
85	141	3	Emergency
86	142	1	3924
86	142	2	Emergency
87	143	1	2777d
87	143	2	Emergency
88	144	1, 2	P.C. 353b
88	144	3	Emergency
90	146	1-3	2806d
90	146	4	2806d note
90	146	5	Emergency
91	147	1	2093c
91	147	2, 3	2093c note
91	147	4	Emergency
92	148	1	S263-e § 18-a
92	148	2	Emergency
93	150	1-20-a	118d
93	150	21	118d note
93	150	22	Emergency
94	160	1-19	4512b
94	160	20(a)	P.C. 740
94	160	20(b)	P.C. 741
94	160	21(a)	4504
94	160	21(b)	4510
94	160	22-24	4512b
94	160	25	Emergency
95	170	1 to 16-a	4590c
95	170	17	P.C. 742-a
95	170	18	P.C. 742-b
95	170	19	P.C. 742-c
95	170	20	P.C. 744-a
95	170	21	P.C. 744-b
95	170	22	P.C. 160-a
95	170	23	P.C. 160-b
95	170	24, 25	4590c
95	170	26	Emergency
96	178	1-3	6819a-5
96	178	4	Emergency
97	180	1-3	2326i
97	180	4	Emergency
98	181	1, 2	717f
98	181	3	Emergency
99	181	1-8	6228b
99	181	9	6228b note
99	181	10	6228b
99	181	11	Emergency
100	184	1, 2	2616a
100	184	3	Emergency
101	185	1	1302, subd. 39a
101	185	2	Emergency
102	185	1-5	1970-335
102	185	6	1970-335 note
102	185	7	Emergency
103	187	1	2553
103	187	2	Emergency
105	189	1	2350m note
106	189	1-3	3912e-14
106	189	4	Emergency

1949 (51st Leg.) Regular Session

—Cont'd

Ch.	P.	Sec.	Art.
107	191	1	1302, subd. 108
107	191	2	Emergency
110	193	1-31	fol. S197f note
111	205	1	1011f
111	205	2	Emergency
114	207	1-7	2815n
114	207	8	2815n note
114	207	9	2815n
114	207	10	Emergency
115	210	1	199(76)
115	210	2	199(76) note
116	211	1, 1A	C.C.P. 367f
116	211	2	C.C.P. 367f note
117	211	1	P.C. 952l-7
117	211	2	P.C. 952l-7 note
117	211	3	Emergency
120	218	1	S293
120	218	2	Emergency
121	218	1-5	6839e
121	218	6	Emergency
122	219	1	6795b-1 note
122	219	2	6795b-1, § 2
122	219	3	6795b-1, § 5a
122	219	4	6795b-1, § 7
122	219	5	6795b-1, §§ 7a, 7b
122	219	6	Emergency
123	222	1-7	2788a
123	222	8	Emergency
124	224	1	4494h
124	224	2	Emergency
125	225	1-5	4494i
125	225	6	4494i note
125	225	7	Emergency
126	227	1	P.C. 432
126	227	2	P.C. 432 note
126	227	3	Emergency
127	228	1-3	2815g-42
127	228	4	Emergency
128	229	1, 2	2350m note
128	229	3	Emergency
130	233	1	3936g
130	233	2	3936g note
130	233	3	Emergency
131	234	1	2978b
131	234	2	Emergency
134	236	1-13	2744e-6
134	236	14	Emergency
138	243	1, 2	5139D
138	243	3	Emergency
Ch.	P.	Art.	Art.
139	244	I	2922-1, § 1
139	244	II	2922-1, § 2
139	244	III	2922-1, § 3(3)
139	244	IV	2922-1, § 3(4)
139	244	V	2922-1, § 3(5)
139	244	VI	2922-1, § 4(1, 5)
139	244	VII	2922-1, § 5
139	244	VIII	2922-1, § 8
139	244	IX	2922-1, § 10
139	244	X	2922-1 note
139	244	XI	Emergency

References are to Civil Statutes unless otherwise indicated.

1949 (51st Leg.) Regular Session —Cont'd				1949 (51st Leg.) Regular Session —Cont'd			
Ch.	P.	Sec.	Art.	Ch.	P.	Sec.	Art.
140	261	1-9	1970—300a	159	326	1-15	fol. 8197f note
140	261	10	Emergency	160	330	1	P.C. 952l—11, § 1c
143	264	1	326k—13	160	330	2	Emergency
143	264	2	326k—13 note	161	331	1-7	1702f
143	264	3	Emergency	161	331	8	1702f note
144	265	1-8	2643d	161	331	9	Emergency
144	265	9	Emergency	163	334	—	2675—1 note
145	267	1-7	2643e	165	336	1	600a, § 3
145	267	8	Emergency	165	336	2	Emergency
146	269	1-6	2815o	166	338	1	1970—324, § 16
146	269	7	2815o note	166	338	2	Emergency
146	269	8	2815o	169	341	1	2746
146	269	9	Emergency	169	341	2	Emergency
147	270	—	8198 note	170	342	1	97
148	282	1	5221b—1	170	342	2	P.C. 1712
148	282	2	5221b—2	170	342	3	97 note
148	283	4	5221b—4	170	342	4	Emergency
148	283	5	5221b—5,	172	345	1-4	2351d
			subs. (c) (2)	172	345	5	Emergency
148	283	5A	5221b—5,	173	346	1	2461
			subs. (c) (4)	173	346	2	2462
148	283	5B	5221b—5,	173	346	3	2464
			subs. (c) (5)	173	346	4	2465
148	283	5C	5221b—5,	173	346	5	2468
			subs. (c) (6)	173	346	6	2469
148	283	5D	5221b—5,	173	346	7	2470
			subs. (c) (7)	173	346	8	2471
148	283	5E	5221b—5, sub. (d)	173	346	9	2477
148	283	6	5221b—6	173	346	10	2484
148	283	7	5221b—11	173	346	11	2484b
148	283	8	5221b—17	173	346	12	2461 note
148	283	9	5221b—22a	173	346	13	Emergency
148	283	10-12	5221b—1 note	180	356	1	P.C. 1370
148	283	13	Emergency	180	356	2	Emergency
149	304	1	6573a, §§ 5-22	181	357	1-3	331d
149	304	2, 3	6573a note	181	357	4	Emergency
149	304	4	Emergency	186	362	1	2597
150	316	1	199(7)	186	362	2, 3	2597 note
150	316	2	199(115)	187	363	1	974—1
150	316	3, 4	199(7) note	187	363	2	974—2
150	316	5	199(115) note	187	363	3, 4	974—1 note
150	316	6	199(7) note	187	363	5	Emergency
150	316	7, 8	199(115) note	189	366	1	7583
150	316	9	Emergency	189	366	1a	7583 note
151	318	1	5326h	189	366	2	Emergency
151	318	2	Emergency	190	367	1	1011
152	319	1	199(75)	190	367	2	Emergency
152	319	2	199(75) note	191	368	1	P.C. 1377
153	320	1, 2	6067a	191	368	2	P.C. 1377 note
153	320	3	Emergency	191	368	3	Emergency
154	321	1(1)	974a, § 1	192	369	1	1934a—13
154	321	1(2)	974a, § 10	192	369	2	Emergency
			Repealed	193	370	1, 2	2744a—1
154	321	2	Emergency	193	370	3	Emergency
156	323	1	1196(a)	194	370	1	2350(6), § 3
156	323	2	1196(a) note	194	370	2	Emergency
156	323	3	Emergency	195	371	1	6243e—1 Repealed
157	324	1-3	3174a	196	371	1-3	fol. 8197f note
157	324	4	Emergency	196	371	4	Emergency
158	325	1	3205a	197	373	1	6228a, § 1,
158	325	2	Emergency				subsec. R

References are to Civil Statutes unless otherwise indicated.

1949 (51st Leg.) Regular Session —Cont'd				1949 (51st Leg.) Regular Session —Cont'd			
Ch.	P.	Sec.	Art.	Ch.	P.	Sec.	Art.
197	373	2	6228a, § 5, subsec. B (2)	222	416	3	6228a, § 3 note
197	373	3	6228a, § 1, subsec. R note	222	416	4	Emergency
197	373	4	Emergency	223	422	1	2647d
198	374	1, 2	3012e—4b	223	422	2	Emergency
198	374	3	Emergency	224	423	1-4	2633a
199	375	1	977	224	423	4a	2633a note
199	375	2	999a	224	423	5	Emergency
199	375	3	977 note	226	425	1, 2	331e
199	375	4	Emergency	226	425	3	Emergency
200	376	1	6701a, § 3	227	426	1	3902i
200	376	2	6675a—8b	227	426	2	3902i note
200	376	3	P.C. 827a, § 2	227	426	3	Emergency
200	376	4	6701a note	228	427	1, 1a	1436a
200	376	5	Emergency	228	427	2	1436a note
201	378	1-9	8161d	228	427	3	1436a
201	378	10-13	8161d note	228	427	4	Emergency
201	378	14	Emergency	231	431	1	4528a, § 3
202	381	1	5139	231	431	2	Emergency
202	381	2, 3	5139 note	232	432	1	2978a
202	381	4	Emergency	232	432	2, 3	2978a note
203	383	1, 2	1118q	232	432	4	Emergency
203	383	3	1118q note	233	433	1	2372h, § 6
203	383	4	Emergency	233	433	2	Emergency
204	384	1	5068b, § 7	234	434	1-14	5221a—5
204	384	2	5068b, § 7 note	234	434	15	5221a—4, P.C. 1593a
204	384	3	Emergency	234	434	16	Emergency
205	385	1-5	835h	235	441	1-13	2783e
205	385	6	835h note	235	441	14	Emergency
205	385	7	Emergency	238	444	1, 2	835i
206	387	1	1182c—1	238	444	3	Emergency
206	387	2	1182c—1 note	239	445	1	5790a
206	387	3	Emergency	239	445	2	5790a note
207	389	1	3254c, § 1	239	445	3	Emergency
207	389	2	3254a—1, § 14	240	446	1-3	3903e
207	389	3	3254a—1, § 15	240	446	4	Emergency
207	389	4	3254d, § 16	241	447	1	5142
207	389	5	3254d, § 17	241	447	2	Emergency
207	389	6	Emergency	242	450	1, 2	4624a
212	397	1	3183a, § 17a	242	450	3	Emergency
212	397	2	Emergency	243	451	1, 2	974g
213	398	1-5	8198 note	243	451	3	Emergency
213	398	6	Emergency	244	452	1-3	1970—336
216	405	1-4	8263j	244	452	4	1970—336 note
216	405	5	8263j note	244	452	5	Emergency
216	405	6	Emergency	245	453	1-19	5221a—6
217	407	1	8263k	245	453	20	Emergency
217	407	2	8263k note	246	460	1	2350
217	407	3	Emergency	246	460	2	Emergency
218	408	1-10	6079c	247	460	1-5	2327c
218	408	11	Emergency	247	460	6	Emergency
220	411	1	6053, § 6	248	462	1-3	2326j
220	411	2	6053, § 7	248	462	4	Emergency
220	411	3	6053, § 8	249	463	1-4	1111a
220	411	4	6053, § 10	249	463	5	Emergency
220	411	5	Emergency	250	465	1-4	1111b
221	414	1, 2	1646b	250	465	5	Emergency
221	414	3	Emergency	251	467	1	5890b, § 5
222	416	1	6228a, § 3	251	467	2	5890b, § 5 note
222	416	2	6228a, § 5	251	467	3	Emergency
				252	468	1	2806e

References are to Civil Statutes unless otherwise indicated.

1949 (51st Leg.) Regular Session

—Cont'd

Ch.	P.	Sec.	Art.
252	468	2	2806e note
252	468	3	Emergency
253	469	1	1934a—14
253	469	2	Emergency
254	470	1-4	S120a
254	470	5	Emergency
255	471	1-9	P.C. 978l—5
255	471	10	Emergency
256	473	1-3	2647e
256	473	4	Emergency
257	474	1	3912e, § 17(b)
257	474	2	Emergency
258	475	1-7	2651a
258	475	8	Emergency
259	477	1-6	6008b
259	477	7	Emergency
260	483	1	1302g
260	483	2	Emergency
261	484	1, 2	2647f
261	484	3	Emergency
262	485	1	176B
262	485	2	Emergency
263	486	1	SS1a—9, SS1a—10, SS1a—57, SS1a—61, SS1a—63
263	486	2	Emergency
267	491	1-8	1970—337
267	491	9	1970—337 note
267	491	10	Emergency
268	492	1	199(51)
268	492	2	Emergency
269	493	1-6	1200c
269	493	7	Emergency
270	495	1-4	974c—2
270	495	5	Emergency
271	497	1	fol. 199(9)
271	497	2	Emergency
272	498	1	2039a, § 1
272	498	2	Emergency
275	501	1	2351, subd. 19
275	501	2, 3	2351, subd. 19 note
275	501	4	Emergency
276	503	1	2351, subd. 18
276	503	2, 3	2351, subd. 18 note
276	503	4	Emergency
280	507	1-4	8247e
280	507	5	Emergency
281	509	1, 1a, 2	P.C. 1721
281	509	3	Emergency
282	510	1-15	fol. 8197f note
282	510	16	Emergency
283	518	1-4	2338—2
283	518	5	Emergency
284	519	1	6889b
284	519	2	Emergency
285	520	1	7880—75c
285	520	2	Emergency
287	522	1	4590c, §§ 8, 16; P.C. 742—b

1949 (51st Leg.) Regular Session

—Cont'd

Ch.	P.	Sec.	Art.	
287	522	2	4590c	
287	522	3	4590c note	
287	522	4	Emergency	
288	524	1-10	165—6	
288	524	11	Emergency	
290	528	1	6268	
290	528	2	Emergency	
291	529	1	3040a	
291	529	2	3040a note	
291	529	3	Emergency	
292	530	1	5142a, §§ 3, 4, 5	
292	530	2	Emergency	
293	531	1, 2	4494m	
293	531	3	Emergency	
294	532	1	342—507, subsec. 3	
294	532	2	Emergency	
295	533	1-3	2802i—28	
295	533	4	2802i—28 note	
295	533	5	Emergency	
296	534	1	6221	
296	534	2	Emergency	
298	536	1	C.C.P. 807	
298	536	2	C.C.P. 809	
298	536	3	Emergency	
Ch.	P.	Art.	Sec.	Art.
299	537	I	1-3	2654—1
299	537	II	1-8	2654—2
299	537	III	1-3	2654—3
299	537	IV	1-5	2654—4
299	537	V	1-8	2654—5
299	537	VI	1-3	2654—6
299	537	VII	1-6	2654—7
299	537	VII	7	Emergency
Ch.	P.	Sec.	Art.	
301	548	1	P.C. 430a repealed	
303	550	1-6	fol. 8197f note	
303	550	7	Emergency	
304	554	1-5	fol. 8197f note	
304	554	6	Emergency	
305	556	1-9	199(105)	
305	556	10	Emergency	
306	559	1	7880—3c	
306	559	2	7880—3c note	
306	559	3	Emergency	
307	564	1-24	6243i	
307	564	25	6243i note	
307	564	26	Emergency	
308	571	1, 2	3936h	
308	571	3	3936h note	
308	571	4	Emergency	
309	572	1, 2	6830 note, 7880—148 note, fol. 8197f note	
309	572	3	Emergency	
310	578	1, 2	2784f	
310	578	3	2784f note	
310	578	4	Emergency	
312	583	1	2790l	
312	583	2	2790l note	

References are to Civil Statutes unless otherwise indicated.

1949 (51st Leg.) Regular Session  
—Cont'd

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
312	583	3	Emergency
313	584	1, 2	974e—7
313	584	3	Emergency
315	586	1-7	3912c—15
315	586	8	3912e—15 note
315	586	9	Emergency
316	588	1-5	3174b
316	588	6, 7, 7a	3174b note
316	588	8-10	3174b
316	588	11	3174b note
316	588	12	3174b
316	588	13	Emergency
317	591	1	2815h, § 17a
317	591	2	Emergency
318	592	1, 27	5421m note
318	592	2-26	5421m
318	592	27	5421m note
318	592	28	5421m
318	592	29	Emergency
319	601	1	SS1b
319	601	2	Emergency
320	601	1-6	3912g
320	601	7	Emergency
321	603	1-7a	5382b
321	603	8	5382b note
321	603	9	5382b
321	603	10	Emergency
322	605	1	2615e
322	605	2	Emergency
323	606	1	681
323	606	2	Emergency
324	607	1-9	5429b
324	607	10	Emergency
325	610	1	2815h, § 7b
325	610	2	Emergency
326	611	1-4	1581d
326	611	5	Emergency
327	612	1, 2	2815j—2
327	612	3, 4	2815j—2 note
327	612	4a	2815j—2
327	612	5	Emergency
328	614	1	6819a—6
328	614	2	6819a—4 repealed
328	614	3	6819a—6 note
328	614	4	Emergency
329	615	1	2980
329	615	2	3008
329	615	3	3012
329	615	4	3109
329	615	5	3122
329	615	6	2956a
329	615	7	2997d
329	615	7-A	3153a
329	615	8	2992a
329	615	9, 10	2980 note
329	615	11	Emergency
330	620	1, 2	199(70)
330	620	3-5	199(70) note
330	620	6-7	199(118)
330	620	8-13	199(70) note
330	620	14, 15	199(118)

Ch.	P.	Sec.	Art.	
330	620	16, 17	199(118) note	
330	620	18	Emergency	
331	623	1, 2	2815h—6	
331	623	3	Emergency	
332	624	1	7807n	
332	624	2	Emergency	
Ch.	P.	Art.	Sec.	Art.
334	625	I	1	2922—11
334	625	II	1, 2	2922—12
334	625	III	1	2922—13
334	625	IV	1, 2	2922—14
334	625	V	1, 2	2922—15
334	625	V	3	634(B)
334	625	V	4	2922—15
334	625	VI	1-5	2922—16
334	625	VII	—	2922—17
334	625	VIII	—	2922—18
334	625	IX	—	2922—19
334	625	X	—	2922—20
334	625	XI	1, 2	2922—21
334	625	XII	—	2922—22
334	625	XIII	—	Emergency
Ch.	P.	Sec.	Art.	
335	647	1	7083a, subs. 4-a	
335	647	2	7083a, subs. 4-a note	
335	647	3	Emergency	
336	648	1-8	8280—3	
336	648	9	Emergency	
337	652	1, 2	6252—2	
337	652	3	Emergency	
338	653	1	5142d	
338	653	2	5142d note	
338	653	3	Emergency	
339	654	1	5142b, §§ 1, 5, 7	
339	654	2	5142b, § 17	
339	654	3, 4	5142b note	
339	654	5	Emergency	
340	655	1-26	fol. S197f note	
340	655	27	Emergency	
341	665	1-3	1645	
341	665	4	Emergency	
342	667	1-3	1109e	
342	667	4	Emergency	
343	669	1	199(105)	
343	669	2	Emergency	
344	672	1	7661	
344	672	2	Emergency	
345	673	1	1524—a	
345	673	2	Emergency	
347	674	1-3	2592a	
347	674	4	Emergency	
348	675	1	6248e, § 6	
348	675	2	Emergency	
349	676	1	fol. S197f note	
349	676	2	Emergency	
351	678	1	199(107)	
351	678	2, 3	199(107) note	
351	678	4	Emergency	
352	679	1	5921a	



References are to Civil Statutes unless otherwise indicated.

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
352	679	2	Emergency
353	680	1	1645a—1
353	680	2	Emergency
354	682	1	1187c
354	682	2	1187c note
354	682	3	Emergency
355	683	1-4	1970—338
355	683	5	1970—338 note
355	683	6	Emergency
357	685	1	199(77)
357	685	2	199(77) note
357	685	3	Emergency
358	686	1	199(87)
358	686	2	199(87) note
358	686	3	Emergency
360	688	1, 2	322c
360	688	3	322c note
360	688	4	Emergency
361	688	1	3084
361	688	2	3106
361	688	3	3026a
361	688	4	3028
361	688	5	3123
361	688	6	3124
361	688	7	3128
361	688	8	3084 note
361	688	9	Emergency
362	692	1-18	1970—339
362	692	19	199(117, §§ 4, 5)
362	692	20	1970—339
362	692	21	Emergency
363	696	1	881a—44
363	696	2	Emergency
364	697	1, 2	2815j—2 note
364	697	3	Emergency
365	698	1-6	974c—3
365	698	7	Emergency
366	699	1	5139
366	699	2	Emergency
367	701	1	2919c
367	701	2	Emergency
368	702	1	2338—1
368	702	2, 3	2338—1 note
368	702	4	Emergency
369	704	1-8	P.C. 895a
369	704	9	Emergency
372	708	1-6	7467b
372	708	7	Emergency
373	710	1	708b—1
373	710	2	Emergency
374	711	1, 2	fol. 8197f note
374	711	3	Emergency
376	713	1, 1A	1580 note
376	713	2	Emergency
379	716	1	2821
379	716	2	Emergency
380	716	1-5	7466g
380	716	6	Emergency
383	720	1	2095
383	720	2	Emergency
385	722	1	971a

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
385	722	2	Emergency
388	724	1	6228a, § 6
388	724	2, 3	6228a note
388	724	4	Emergency
389	725	1, 2	2647g
389	725	3	Emergency
390	726	1	6954
390	726	2	Emergency
391	727	1	2783d
391	727	2	Emergency
392	729	1-4	976a
392	729	5	Emergency
393	730	1	2802e—1
393	730	2	Emergency
394	733	1	2789
394	733	2	Emergency
395	734	1	2745b
395	734	2	Emergency
396	734	1	2372i
396	734	2	Emergency
397	735	1-7	1015h
397	735	8	Emergency
398	737	1-15	fol. 8197f note
398	737	16	Emergency
399	741	1	2815p
399	741	2	Emergency
402	743	1	695c, § 8
402	743	2, 3	695c note
402	743	4	Emergency
403	751	1	2637a
403	751	2	2637b
403	751	3	2637c
403	751	4	2637d
403	751	5	2637e
403	751	6	2637f
403	751	7	2637g
403	751	8	2637h
403	751	9	2637a note
403	751	10	2637i
403	751	11	Emergency
404	754	1, 2	7345e
404	754	3	7345e note
405	755	1	4477, rule 35a
405	755	2	Emergency
406	756	1-11	3232a
406	756	12	3232a note
406	756	13	3223—3232 Repeal
406	756	14	Emergency
407	759	1-3a	1581e
407	759	4	Emergency
408	760	1-4	3912h
408	760	5	Emergency
409	761	1-7	2815m—1
409	761	8	2815m—1 note
409	761	9	2815n—1
409	761	10	Emergency
410	763	1	331f
410	763	2	331f note
410	763	3	Emergency
411	764	1, 2	2372d—2
411	764	3	Emergency

References are to Civil Statutes unless otherwise indicated.

1949 (51st Leg.) Regular Session

1949 (51st Leg.) Regular Session

—Cont'd

—Cont'd

Ch.	P.	Sec.	Art.
412	765	1	2700
412	765	2, 3	2700 note
412	765	4	Emergency
413	768	1-3	1702g
413	768	4	Emergency
414	769	1	1287—1, § 4
414	769	2	Emergency
415	771	1	P.C. 752c
415	771	2	P.C. 754b
415	771	3, 4	P.C. 752c note
415	771	5	Emergency
416	773	1-17	6077o
416	773	18	Emergency
417	777	1	4477 rule 54a
417	777	2	Emergency
419	779	1	1085a
419	779	2	Emergency
421	781	1-4	2372j
421	781	5	Emergency
422	783	1-6	4050c
422	783	7	4050c note
422	783	8	Emergency
423	784	1-4	2790m
423	784	5	Emergency
425	791	1, 1a	1154
425	791	2	Emergency
426	792	1-15	2338—3
426	792	16	Emergency
428	797	1-19	8309c
428	797	20	8309c note
428	797	21	Emergency
429	803	1	P.C. 301d
429	803	2	P.C. 301d note
429	803	3	Emergency
430	804	1-4a	P.C. 827f
430	804	5	Emergency
432	807	1-8	199(134)
432	807	9	Emergency
435	810	1-4	5561b
435	810	5	5561b note
435	810	6	5561b
435	810	7	Emergency
437	812	1	836
437	812	2	Emergency
438	813	1	4766
438	813	2	4766 note
438	813	3	Emergency
439	815	1	4725
439	815	2	4725 note
439	815	3	Emergency
440	820	1	2326
440	820	2	2326 note
440	820	3	Emergency
441	821	1, 2	P.C. 1146a
441	821	3	Emergency
442	822	1	P.C. 1333A
442	822	2	Emergency
444	825	1	655
444	825	2	Emergency
445	826	1	657
445	826	2	Emergency

Ch.	P.	Sec.	Art.
446	826	1	4860a—20
446	826	2	4860a—20 note
446	826	3	Emergency
447	827	1	666
447	827	2	666—1
447	827	3	666—2
447	827	4	Emergency
448	829	1	3937
448	829	2	3939
448	829	3, 4	3937 note
448	829	5	Emergency
449	831	1-3	2803c
449	831	4	Emergency
450	832	1	342—707a
450	832	2	342—707a note
450	832	3	Emergency
451	832	1	165—4a
451	832	2	165—4b
451	832	3	Emergency
452	834	1, 2	1302h
452	834	3	1302h note
452	834	4	Emergency
453	835	1	4929
453	835	2	4929a
453	835	3	Emergency
454	835	1-7	6228c
454	835	8	Emergency
457	840	1	8309b, § 2(2)
457	840	2	8309b, § 2(7), Repealed
457	840	3	8309b, § 4
457	840	4	8309b, § 7
457	840	5	8309b note
457	840	6	Emergency
458	842	1-3	4192b
458	842	4	Emergency
459	844	1	2620
459	844	2, 3	2620a
459	844	4	Emergency
460	845	1, 2	P.C. 941b
460	845	3	P.C. 941b note
460	845	4	Emergency
461	846	1-5	3263c
461	846	6	Emergency
462	847	1	4682b, § 1A
462	847	2	Emergency
463	848	1-3	6077p
463	848	4, 5	6077p note
463	848	6	Emergency
464	849	1-11	7048a
464	849	12	7048a note
464	849	13	Emergency
465	855	1-24	8197f note
465	855	25	Emergency
466	864	1-10	4032b
466	864	11	4032b note
466	864	12, 13	4032b
466	864	14	4032a Repealed
466	864	15	4032b
466	864	16	Emergency
467	868	1	2094

References are to Civil Statutes unless otherwise indicated.

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
467	868	2	Emergency
468	869	1, 2	199(128)
468	869	3-6	199(128) note
468	869	7	199(128) § 7
468	869	8, 9	199(128) note
468	869	10	Emergency
469	870	1	P.C. 827a, § 3(c)
469	870	2	P.C. 827a, § 3 note
469	870	3	Emergency
470	871	1	2843
470	871	2	2844, 2844a Repealed
470	871	3	2843 note
470	871	4	Emergency
471	873	1-11	135b-2
471	873	12	135b-2 note
471	873	13	Emergency
472	879	1, 1a, 2	1269l-1
472	879	3	Emergency
473	880	—	P.C. 978j note
474	880	1, 2	5369, 5370, 5371
474	880	3	Emergency
475	882	1-5	4413(29a)
475	882	6	Emergency
477	885	1-4	2742o
477	885	5	Emergency
479	888	1-6	2606b
479	888	7	Emergency
480	890	1-19	4590d
480	890	20	4590d note
480	890	21	Emergency
482	900	1	6008a, § 3(h, i)
482	900	2	6008a-1
482	900	3, 4	6008a note
482	900	5	Emergency
483	902	1, 2	5248g
483	902	3	Emergency
484	903	1	6820
484	903	2	6820 note
484	903	3	Emergency
485	904	1	1577
485	904	2-4	1577 note
485	904	5	Emergency
486	907	1	6954
486	907	2	Emergency
487	908	1-6	5429c
487	908	7	Emergency
488	910	1	P.C. 534
488	910	2	Emergency
489	911	1-4	P.C. 978l-6
489	911	5	P.C. 978l-6 note
489	911	6	Emergency
490	912	1, 2	P.C. 726b
490	912	3	Emergency
491	913	1	6823
491	913	2	Emergency
493	914	1-5	3202c
493	914	6	Emergency
494	915	1	2226
494	915	2	Emergency
495	916	1	326k-12
495	916	2	Emergency

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
496	917	1	C.C.P. 1052
496	917	2, 3	C.C.P. 1052 note
496	917	4	Emergency
497	918	1	4476a, § 1
497	918	2	4476a, § 2
497	918	3	4476a, § 4
497	918	4	4476a, § 5
497	918	5	4476a, § 9
497	918	6	Emergency
498	922	1, 2	2815q
498	922	3, 4	2815q note
498	922	5	Emergency
499	923	1	4123a-1, § 7
499	923	2, 3	4123a-1 note
499	923	4	Emergency
500	924	1-3	P.C. 534a
500	924	4	Emergency
501	926	1, 2	7092a
501	926	3	7092a note
501	926	4	Emergency
502	927	1-9	2815r
502	927	10	Emergency
505	931	1-6	8280-4
505	931	7	Emergency
508	934	1-2A	974c-4
508	934	3	Emergency
509	935	1	6228a, § 3(B)
509	935	2	Emergency
510	936	1-6	835j
510	936	7	Emergency
513	940	1	1113a
513	940	2	Emergency
515	941	1	1645a-5
515	941	2	Emergency
517	943	1	5139 note
517	943	2	Emergency
518	944	1, 2	2805a
518	944	3	Emergency
519	945	1	6066b, § 1
519	945	2	6066b, § 2
519	945	3	6008, § 2(k)
519	945	4	7047b, § 2(12)
519	945	4a	6066b, § 4a
519	945	4b	6066b, § 4b
519	945	5	6066b, § 5
519	945	6	6066b, § 6
519	945	7	Emergency
520	948	1-14	1970-110a
520	948	15, 16	1970-110a note
520	948	17	Emergency
522	951	1	P.C. 1583-2
522	951	2, 3	P.C. 1583-2 note
522	951	4	Emergency
523	954	1-6	5769b
523	954	7	5769b note
523	954	8	Emergency
524	955	1	165-7
524	955	2	Emergency
525	956	1-4	2320c
525	956	5	Emergency
526	958	1	6053, § 11

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
526	958	2	Emergency
527	959	1	1287a, §§ 3a, 3b
527	959	2	Emergency
528	960	1-5	3912e-16
528	960	6	Emergency
529	961	1-9	2351e
529	961	10	Emergency
530	963	1	976b
530	963	2	Emergency
532	965	1	2093e
532	965	2	Emergency
534	966	1	881a-24, 881a-25, 881a-37
534	966	2	Emergency
535	973	1-3	1110b
535	973	4	Emergency
536	975	1	7084
536	975	2	7085
536	975	3	7086
536	975	4	7087
536	975	5	7089
536	975	6	7090
536	975	7	7091
536	975	8	7092
536	975	9	7093
536	975	10	7094
536	975	11	7095
536	975	12	7097
536	975	13	7084 note
536	975	14	7089a-7089h Repealed
536	975	15	Emergency
538	988	1-38	5143c
538	988	39-43	5143c note
538	988	44	Emergency
539	998	1-4	4698b
539	998	5	Emergency
540	1000	1-6	165a-8
540	1000	7	Emergency
541	1003	1-11	1118n-5
541	1003	12	Emergency
542	1006	1-16	2977a Inoperative
543	1011	1	P.C. 666-3a
543	1011	2	P.C. 666-11
543	1011	3	P.C. 666-12
543	1011	4	P.C. 666-13
543	1011	5	P.C. 666-15
543	1011	6	P.C. 666-15a1
543	1011	7	P.C. 666-17
543	1011	8	P.C. 666-30
543	1011	9	P.C. 666-41a
543	1011	10	P.C. 666-42
543	1011	11	P.C. 666-44 Repealed
543	1011	12	P.C. 666-5a, P.C. 666-36½, P.C. 666-49a, P.C. 666-50, P.C. 666-51a, P.C. 666-52,

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
543	1011	12	P.C. 666-53, P.C. 666-54, P.C. 666-55, P.C. 666-56
543	1011	13	P.C. 667-3
543	1011	14	P.C. 667-5
543	1011	15	P.C. 667-5A Repealed
543	1011	16	P.C. 667-19
543	1011	17	P.C. 667-19B
543	1011	18	P.C. 667-20
543	1011	19	P.C. 667-17
543	1011	20	P.C. 667-24a
543	1011	21	P.C. 667-23½, P.C. 667-28, P.C. 667-29, P.C. 667-30, P.C. 667-31
543	1011	22	P.C. 667-23 note
543	1011	23-25	P.C. 666-3a note
543	1011	26	Emergency
544	1054	1	2654F
544	1054	2	2654F note
544	1054	3	Emergency
545	1055	1	P.C. 719e, § 4(4)
545	1055	2	Emergency
546	1056	1	2654-2
546	1056	2, 3	2654-2 note
546	1056	4	Emergency
547	1060	1-10	4612a
547	1060	11	4612a note
547	1060	12, 13	4612a
547	1060	14	Emergency
548	1062	1-7	4445a
548	1062	8	Emergency
549	1064	1	2368a, § 2
549	1064	2	2368a-1
549	1064	3	2368a note
549	1064	4	Emergency
550	1066	1	4445, § 3
550	1066	2	4445, § 4, subd. 1
550	1066	3	4445 note
550	1066	4	Emergency
551	1067	1	5012a, § 1(e)
551	1067	2	5012a, § 1 note
551	1067	3	Emergency
552	1068	1	1645
552	1068	2-4	1645 note
552	1068	5	Emergency
554	1087	1-7	4075a
554	1087	8	Emergency
555	1092	1, 2	5248h
555	1092	3	Emergency
556	1093	1	4168
556	1093	2	Emergency
557	1094	1, 2	6227a
557	1094	3	6227a note
557	1094	4	Emergency
558	1095	1, 2	5769c
558	1095	3	Emergency

References are to Civil Statutes unless otherwise indicated.

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
559	1096	1 - -	5369, 5370, 5371
559	1096	2 - -	5369 note
559	1096	3 - -	Emergency
560	1098	1 - -	2368a
560	1098	2 - -	2368a—1
560	1098	3 - -	2368a note
560	1098	4 - -	Emergency
561	1100	1 - -	5798a—3
561	1100	2 - -	Emergency
563	1103	1 - -	320a—1, § 4
563	1103	2 - -	320a—1, § 4 note
563	1103	3 - -	Emergency
564	1105	1 - -	4705
564	1105	2 - -	4705 note
564	1105	3 - -	Emergency
565	1106	1 - -	4413b—1, § 2
565	1106	2 - -	4413b—1, § 4a
565	1106	3 - -	Emergency
567	1109	1 - -	fol. 8197f note
567	1109	2 - -	Emergency
569	1111	1 - -	2168a
569	1111	2 - -	Emergency
570	1112	1-3 - -	2286a
570	1112	4 - -	Emergency
571	1113	1 - -	2922—1, § 7(1)
571	1113	2 - -	Emergency
572	1114	1 - -	1269m, § 5a
572	1114	2 - -	1269m, § 8
572	1114	3 - -	1269m, § 9
572	1114	4 - -	1269m, § 14
572	1114	5 - -	1269m, § 16a
572	1114	6 - -	1269m, § 22
572	1114	7 - -	1269m note
572	1114	8 - -	Emergency
573	1118	1-5 - -	2815—2
573	1118	6 - -	Emergency
574	1120	1 - -	5500
574	1120	2 - -	5500 note
574	1120	3 - -	Emergency
575	1121	1 - -	2351a—4
575	1121	2 - -	Emergency
576	1122	1 - -	1395a
576	1122	2 - -	Emergency
581	1127	1-12 - -	118e
581	1127	13 - -	Emergency
582	1131	1-5 - -	P.C. 1260a
582	1131	6 - -	Emergency
586	1172	1 - -	5845
586	1172	2-4 - -	5845 note
586	1172	5 - -	Emergency
587	1173	1-3 - -	7047e note
587	1173	4 - -	Emergency
588	1174	1, 2 - -	6228d
588	1174	3 - -	Emergency
589	1175	1 - -	6701d
589	1175	2 - -	Emergency
591	1177	1 - -	199(19, 54, 74)
591	1177	2 - -	Emergency
592	1178	1, 2 - -	835k
592	1178	3 - -	Emergency
593	1179	1 - -	3912h, § 4

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
593	1179	2 - -	Emergency
595	1181	1 - -	7047a—3
595	1181	2, 3 - -	7047a—3 note
595	1181	4 - -	Emergency
596	1182	1-2(a) - -	4512b note
596	1182	3 - -	Emergency
599	1186	1-4 - -	P.C. 489c
599	1186	5 - -	P.C. 489c note
599	1186	6 - -	Emergency
600	1187	1-5 - -	2922(4)
600	1187	6 - -	Emergency
601	1188	1 - -	8263h, §§ 51, 52
601	1188	2 - -	8263h note
601	1188	3 - -	Emergency
602	1189	1, 2 - -	2654d—1
602	1189	3 - -	Emergency
603	1191	1-5 - -	6252—3
603	1191	6 - -	Emergency
604	1193	1 - -	2647, § 6
604	1193	2 - -	Emergency
606	1196	1 - -	3912f—4
606	1196	2 - -	3912f—4, note
606	1196	3 - -	Emergency
607	1196	1 - -	7212
607	1196	2 - -	Emergency
608	1197	1 - -	5142c
608	1197	2 - -	Emergency
609	1200	1 - -	7094
609	1200	2 - -	Emergency
610	1201	1 - -	2815k, § 6
610	1201	2 - -	Emergency
612	1204	1 - -	2790a—6
612	1204	2 - -	Emergency
613	1206	1 - -	5798a—2
613	1206	2 - -	Emergency
616	1354	1 - -	199(11), § 2
617	1355	1-8 - -	5068e
617	1355	9 - -	5068e note
617	1355	10 - -	Emergency
618	1360	1 - -	4932
618	1360	2, 3 - -	4932 note
618	1360	4 - -	Emergency
619	1362	1 - -	4769
619	1362	2, 3 - -	4769 note
619	1362	4 - -	4769a note
619	1362	5 - -	4769 note
619	1362	6 - -	Emergency
620	1365	1 - -	7064a
620	1365	2, 3 - -	7064a note
620	1365	4 - -	4769a note
620	1365	5 - -	7064a note
620	1365	6 - -	Emergency
621	1368	1-8 - -	2908b
621	1368	9 - -	Emergency
622	1370	1 - -	1433
622	1370	1a - -	1433a
622	1370	2 - -	Emergency
623	1372	1 - -	C.C.P. 601—A
623	1372	2 - -	Emergency
624	1373	1 - -	7047 subd. 4G (f)

References are to Civil Statutes unless otherwise indicated.

1949 (51st Leg.) Regular Session  
—Cont'd

Ch.	P.	Sec.	Art.
624	1373	2 - - -	Emergency
625	1373	1 - - -	6145—1, §§ 2, 3, Repealed
625	1373	2 - - -	Emergency
626	1374	1 - - -	foll. S197f note
626	1374	2 - - -	Emergency
627	1375	1 - - -	3207a, § 1
627	1375	2 - - -	3207a note
627	1375	3 - - -	3207b
627	1375	4 - - -	Emergency

1950 (51st Leg.) First Called  
Session

Convened Jan. 31, 1950  
Adjourned March 1, 1950

Ch.	P.	Sec.	Art.
1	1	1 - - -	7047c—1, § 2
1	1	2 - - -	7047c—1, § 3
1	1	3 - - -	P.C. 131c—1, § 2Ga
1	1	4 - - -	7047c—1, § 30a
1	1	5-7A - - -	7047c—1 note
1	1	8 - - -	7047c—1, § 2a
1	1	9 - - -	Emergency
2	10	I	1 - 7057a, § 2A
2	10	I	2 - Effective date
2	10	II	1 - 7047b, § 1½
2	10	II	2 - Effective date
2	10	III	1 - - - 7047n
2	10	III	2 - Effective date
2	10	IV	1 - - - 7070A
2	10	IV	2 - Effective date
2	10	V	1 - - - 7060½
2	10	V	2 - Effective date
2	10	VI	1-8 - 7047k—1
2	10	VII	1 - P.C. 666— 21½
2	10	VII	2 - P.C. 666— 21½ note
2	10	VIII	1 - - - 7084½
2	10	IX	1 - P.C. 666— 21a
2	10	IX	2 - Effective date
2	10	X	1 - 7047l, § 1½
2	10	X	2 - Effective date
2	10	XI	1 - - - 7047o
2	10	XI	2 - Effective date
2	10	XII	1 - - - 7047, subd. 41(a-1)
2	10	XII	2 - Effective date
2	10	XIII	1 - - - 7066c
2	10	XIII	2 - Effective date
2	10	XIV	1 - 7047m, § 1½
2	10	XIV	2 - Effective date
2	10	XV	1-5 - - 7060b
2	10	XV	6 - Effective date
2	10	XVI	1 - P.C. 667—23A
2	10	XVI	2 - Effective date
2	10	XVII	1 - - - 7064½
2	10	XVII	2 - - 7064a—1
2	10	XVII	3 - - - 4769½

1950 (51st Leg.) First Called  
Session—Cont'd

Ch.	P.	Sec.	Art.
2	10	XVIII	1 - P.C. 1111d, § 5½
2	10	XIX	— - - - 3196b
2	10	XX	1-9 - - - 7057e
2	10	XX	10 - Emergency
4	33	1-34 - - -	1528c
4	33	35 - - - -	Emergency
5	44	— - - - -	8198 note
6	47	1 - - - - -	2094
6	47	2 - - - - -	Emergency
7	48	1, 2 - - - -	C.C.P. 367g
7	48	3 - - - - -	Emergency
8	49	1-3 - - - -	P.C. 535b
8	49	4 - - - - -	Emergency
9	50	1, 2 - - - -	P.C. 535c
9	50	3 - - - - -	P.C. 535c note
9	50	4 - - - - -	P.C. 535c
9	50	5 - - - - -	Emergency
10	50	1 - - - - -	P.C. 474
10	50	2 - - - - -	P.C. 474 note
10	50	3 - - - - -	Emergency
11	51	1 - - - - -	P.C. 1147
11	51	2 - - - - -	P.C. 1148
11	51	3 - - - - -	P.C. 1147 note
11	51	4 - - - - -	Emergency
12	52	1-4 - - - -	P.C. 535d
12	52	5 - - - - -	Emergency
13	53	1-9 - - - -	4528b
13	53	10 - - - - -	Emergency
15	73	1 - - - - -	29227(3), § 5
15	73	2 - - - - -	Emergency
16	74	1-27 - - - -	1970—340
16	74	28 - - - - -	1970—340 note
17	78	1, 2 - - - -	6070e
17	78	3 - - - - -	Emergency
20	81	1-4 - - - -	2815g—43
20	81	5 - - - - -	Emergency
21	84	1-3 - - - -	5326i
21	84	4 - - - - -	Emergency
22	85	1-4 - - - -	974d—2
22	85	5 - - - - -	Emergency
23	86	1 - - - - -	2815j—2 note
24	87	1 - - - - -	2351, § 20
24	87	2, 3 - - - -	2351 note
24	87	4 - - - - -	Emergency
25	88	1, 2 - - - -	5248i
25	88	3 - - - - -	Emergency
26	89	1-3 - - - -	2790d—8
26	89	4 - - - - -	Emergency
27	90	1 - - - - -	199(79)
27	90	2 - - - - -	Emergency
29	92	1 - - - - -	199(105)
29	92	2 - - - - -	Emergency
33	96	1 - - - - -	199(107)
33	96	2, 3 - - - -	199(107) note
33	96	4 - - - - -	Emergency
34	97	1 - - - - -	7345e
34	97	2 - - - - -	7345e note
34	97	3 - - - - -	Emergency
35	99	1 - - - - -	5139(B)

References are to Civil Statutes unless otherwise indicated.

1950 (51st Leg.) First Called				1950 (51st Leg.) First Called			
Session—Cont'd				Session—Cont'd			
Ch.	P.	Sec.	Art.	Ch.	P.	Sec.	Art.
35	99	2, 3	5139(E) note	42	111	2	Emergency
35	99	4	Emergency	43	112	1	3959
36	100	1-18	P.C. 978n--1	43	112	2	3959a
36	100	19	Emergency	43	112	3	3959 note
37	105	1	5248	43	112	4	Emergency
37	105	2, 3	5248 note	45	116	1	8197f note
37	105	4	Emergency	45	116	2	Emergency
40	107	1-4	8197f note	48	119	1	118e, § 10
40	107	5	Emergency	48	119	2	Emergency
41	109	1-4	2815s	49	120	1	2647c
41	109	5	Emergency	49	120	2	Emergency
42	111	1	2815k				

# TABLE OF REPEALED LAWS

References are to Civil Statutes unless otherwise indicated.

1927 (40th Leg.) Regular Session				1937 (45th Leg.) Regular Session				
Ch.	P.	Sec.	Art.	Ch.	P.	Sec.	Art.	
231	342	10	974a, § 10	167	329	1	2844a	
268	396	1-5	4032a	448	1053	42	P.C. 666-44	
1929 (41st Leg.) Regular Session				1939 (46th Leg.) Regular Session				
68	220	4	7089a	Page	Sec.		Art.	
210	451	1, 2	2844a	238	1-7		P.C. 934b-1	
1930 (41st Leg.) Fourth Called Session				277			2844a	
13	130	1	P.C. 941, § 1c	279			2844	
1930 (41st Leg.) Fifth Called Session				1941 (47th Leg.) Regular Session				
68	220	4	7089a	Ch.	P.	Sec.	Art.	
1931 (42nd Leg.) Regular Session				181	269	2, 3	6145-1, arts. 2, 3	
227	381	1, 2	4032a, § 1	199	360	1	4032a § 1	
1932 (42nd Leg.) Third Called Session				514	832		6245e-1	
Ch.	P.	Sec.	Art.	1943 (48th Leg.) Regular Session				
27	63	18-a	8263c	Ch.	P.	Sec.	Art.	
1933 (43rd Leg.) Regular Session				67	86	1-12	5221a-4	
238	835		P.C. 430a	67	86	13-16	P.C. 1593a	
1935 (44th Leg.) Regular Session				67	86	17-19	5221a-4	
142	381	1	2844a	67	86	20	P.C. 1593a	
1935 (44th Leg.) First Called Session				67	86	21	5221a-4	
408	1600		6166m-2 note	67	86	22	5221a-4 note	
1935 (44th Leg.) Second Called Session				76	105	1	3224	
Ch.	P.	Art.	Sec.	Art.	318	476	1	7089b-7089h
467	1795	I	44	P.C. 666-44	325	509	19	P.C. 667-5-A
467	1795	II	5-A	P.C. 667-5-A	1945 (49th Leg.) Regular Session			
				Ch.	P.	Sec.	Art.	
				55	78	1	P.C. 934b-1	
				80	117	1-7	4192a	
				309	507	1-5	5368b	
				324	535	2, 3	6145-1, §§ 2, 3	
				1947 (50th Leg.) Regular Session				
				Ch.	P.	Sec.	Art.	
				28	35	1	P.C. 879g-2a	
				42	54		6819a-4 Repealed	
				59	87		P.C. 934b-1,	
				144	248	1	3912e-10	
				377	764	1-3	1702b-6	





# GENERAL INDEX

References are to Civil Statute articles, unless otherwise indicated.  
PC indicates Penal Code.  
CCP indicates Code Criminal Procedure.  
RCP indicates Rules of Civil Procedure.

## ABILENE STATE HOSPITAL

Attorney General, proceedings to collect for support, maintenance and treatment of non-indigent patients, 3232a, § 11.  
Citizen of state, defined, 3232a, § 3.  
County judge, qualifications of physician, making certification, 3232a, § 9.  
Expenses,  
  Care and maintenance,  
    Indigent public patients and non-indigent public patients, 3232a, § 11.  
    Private patients, reimbursement, 3232a, § 6.  
  Transportation and clothing of patients, 3232a, § 10.  
  Transportation to of epileptics from State Hospital for Insane, 3232a, § 5.  
Lien of state for support, maintenance and treatment of non-indigent patients, 3232a, § 11.  
Name changed, 3174a.  
Officers and employees, number, salary, etc., powers and duties of superintendent respecting, 3232a, § 2.  
Oil and gas leases, 6077o.  
Patients,  
  Admission,  
    Application, contents, 3232a, § 7.  
    County judge's duties, 3232a, § 9.  
    Persons admitted, 3232a, § 3.  
    Physician's certificate, 3232a, § 8.  
    Private patients, 3232a, § 6.  
  Classification, 3232a, § 3.  
  Clothing, 3232a, § 10.  
  Indigent patients, defined, 3232a, § 3.  
  Indigent public patients, supported at expense of state, 3232a, § 11.  
  Maintenance and care of private patients, expense, 3232a, § 6.  
  Non-indigent patients,  
    Defined, 3232a, § 3.  
    Maintenance, expense of, reimbursement, lien, 3232a, § 11.  
    Private patients, admission, 3232a, § 6.  
  Physician, certification for admission of patient, 3232a, § 8.  
  Repeal of conflicting laws, 3232a, § 13.  
  Superintendent,  
    Admission of patients, preference, 3232a, § 4.  
    Certificate, amount due state for support of patients, evidence, 3232a, § 11.  
    Qualifications, etc., 3232a, § 2.  
    Rules and regulations, management of hospital, etc., 3232a, § 2.  
  Superintendent of State Hospital for Insane, transmission of transcripts of legal proceedings and histories of epileptics transferred, 3232a, § 5.  
  Texas State Hospitals and Special Schools as including, 3174b, § 3.  
  Tex.St.Supp. '50

## ABILENE STATE HOSPITAL (Cont'd)

Transfer to of epileptics from state hospital for insane, 3232a, § 5.  
Transportation expenses of patients transferred from State Hospital for Insane, 3232a, § 5.  
ACCIDENT INSURANCE  
Credit, regulation, 4764c.  
Foreign companies,  
  Annual statement, 4769.  
  Gross receipts tax, 4769.  
Gross premium receipts tax, additional tax, 7064a-1.  
Gross premiums tax, additional tax, 4769½.  
Loan transactions, issue in connection with, regulation, 4764c.  
Reports to commissioner, 4769a.  
  Investments in Texas securities, 7064a.  
Taxation,  
  Gross premiums, 7064a.  
  Mexican casualty insurance companies, 5012a.

## ACCOUNT, ACTION ON

Systematic record, affidavits, prima facie evidence, (RCP) Rule 185.

## ACCUMULATED DEPOSITS

Defined, 6243h, § 2.

## ACKNOWLEDGMENTS

Apportionment of senatorial and representative districts by Legislative Redistricting Board, Const. art. III, § 28.  
Articles of consolidation of telephone cooperative corporations, 1528c, § 20.  
Certificate of dissolution of telephone cooperative corporation, 1528c, § 21.  
Telephone cooperative corporations,  
  Articles of incorporation, 1528c, § 6.  
  Instruments by officer, director or member, 1528c, § 27.

## ACTIONS

See suits.

## ACTION STATE PARK

Oil and gas leases, 6077o.  
State Parks Board, custody, 6067a.

## ACTUARIAL EQUIVALENT

Defined, 6228a, § 1.

## ACTUARIES

Employees' Retirement System of Texas, 6228a, § 6.

## ADOPTION

Child-placing agency, licensing, 695c, § 8a.  
Choice of agency, 695c, § 8a.  
Licensed agencies, list, 695c, § 8a.

**ADOPTION (Cont'd)**

Parents, natural, exempt from licensing requirements, 695c, § 8a.  
Records, child-placing agency, 695c, § 8a.

**ADULTERATION**

Antifreeze, 165—6, § 6.

**AD VALOREM TAXES**

Allocation, 7048a, §§ 3, 7, 8.  
Certain public agencies, 6830 note; 7880—148 note; foll. 8197f.

Bonds supported by, construction of causeways, etc., in Gulf Coast counties of 50,000 or more, 6795b—1, § 2.

Counties, authority to levy, Const. art. VIII, § 1-a.

Dallas County Flood Control District, donation, foll. 8197f.

**Donation,**

Certain counties, flood control, foll. 8197f.

Counties, restriction on county tax, 7048a, § 2.

Counties and political subdivisions, levy during period of donation, Const. art. VIII, § 1-a.

Homestead exemption, 7048a, § 2.

County taxes, Const. art. VIII, § 1-a.

Rate, 7048a, §§ 1a, 2.

County ad valorem taxes, Const. art. VIII, § 1-a.

**State,**

Allocation, 7048a, § 1a.

Termination, 7048a, §§ 1, 2.

State ad valorem taxes for general revenue prohibited, Const. art. VIII, § 1-a.

**ADVERTISEMENTS**

Intoxicating liquor,

Sound truck, hand bills, etc., use unlawful, PC 666—50.

**ADVISORY COMMISSIONS**

Mosquito control districts, 4477—2.

**ADVOCATING OVERTHROW OR DESTRUCTION OF GOVERNMENT**

Expulsion of student or employee, state-supported universities and colleges, 2908b.

**AFFIDAVITS**

Costs, inability to pay,

Court of Civil Appeals, (RCP) Rule 388—A.

Supreme Court, (RCP) Rule 485.

Game and fish, affidavit of violating regulation relating to taking in certain counties, PC 978n—1, § 18.

Motor vehicle purchaser of consideration received, 7047k—1, § 5(a).

Summary judgment, (RCP) Rule 166—A.

**AFTER-ACQUIRED PROPERTY**

Telephone cooperative corporation's property subject to mortgage or pledge, 1528c, § 25.

**AGE**

Retirement under firemen's relief pension fund, 6243e, § 6.

**AGED PERSONS**

Mexia State School and Home, generally, this index.

**AGENTS**

Vessels, 5500.

**AGRICULTURAL AND MECHANICAL COLLEGE**

Adjunct in Kimble County, 2651d.

Airports, ownership and operation authorized, federal aid, 2919c.

Board of directors,

Adjunct in Kimble County, services provided, 2615d.

Arlington State College, government, 2620a.

Commercial fertilizers, inspection fees deposited with board, 97.

**AGRICULTURAL AND MECHANICAL COLLEGE (Cont'd)**

Citrus fund, 118d, § 18.

Courses of study, adjunct in Kimble County, 2615d.

Federal aid, airport, 2919c.

Highway department, services to, compensation, 2615e.

Summer school, adjunct in Kimble County, 2615d.

**AGRICULTURAL BUILDINGS**

Commissioners courts, authority to acquire and construct, counties of 90,000 to 225,000, 2372j.

**AGRICULTURE**

Citrus Commission, generally, this index.

Commercial fertilizer,

Inspection fees, 97; PC 1712.

Reports, tonnage, 97; PC 1712.

Commissioner of Agriculture,

Anti-freeze registration, 165—6.

Appointment, inspectors, vegetable plants, 118e, § 1.

Citrus Commission Act, enforcement, 118d, § 17.

Fees, inspection of vegetable plants, 118e, § 11.

Herbicide dealers, nonresidents, bond, approval, 135b—2, § 4.

Insecticides and Fungicides, this index.

Inspection, herbicide use and sales records, 135b—2, § 5.

Vegetable plant certification, rules and regulations, 118e, § 1.

Harvest, cabbage and lettuce, trailer regulations, exception, 6701d, § 106.

Herbicides, generally, this index.

Vegetable Plant Certification. Vegetables, this index.

**AIRPLANES**

Corporations for maintaining terminals, 1302g.

**AIRPORTS**

Agricultural and mechanical college, ownership and operation, federal aid, 2919c.

Commissioners courts, power to lease airports and facilities to others, 2351, subd. 18.

Corporations organized to maintain, 1302g.

Counties, acquisition, etc.,

Counties between 6,141 and 6,150, 1581d.

West Texas State College, ownership and operation authorized, federal aid, 2919c.

**ALABAMA-COUSHATTI INDIAN AGENCY**

Name changed, 3174a.

**ALABAMA COUSHATTI INDIAN RESERVATION**

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**ALE**

Defined, Liquor Control Act, PC 666—3a.

**ALIENS**

Lands, report of ownership, time, 176B.

**ANATOMICAL BOARD**

Dead bodies, executed prisoners, CCP 809.

**ANTIFREEZE**

Penalty, 165—6, § 9.

Registration, 165—6, § 2.

Regulations, manufacture and sale, 165—6.

Exceptions, 165—6, § 8.

Searches and seizures, 165—6, § 4.

**APPEALS AND WRITS OF ERROR**

Bond,

Amount and approval, (RCP) Rule 385.

Filing, writ of error, application, (RCP) Rule 473.

Condemnation proceedings, 107th district court, 199(107), § 5a.

**APPEALS AND WRITS OF ERROR (Cont'd)**

- County courts,
  - Appeals from justice of the peace to Willacy county court, 199(107), § 5a.
  - Lubbock County Court at Law, appellate jurisdiction, 1970-340, § 2.
  - Willacy county court, 199(107), § 5a.
- Courts of civil appeals, Lubbock County Court at Law, appeal from, 1970-310, § 4.
- Deposit for costs,
  - Court of Civil Appeals, (RCP) Rule 388-A.
  - Supreme Court, (RCP) Rule 485.
- District Court judgments, certiorari cases, rules governing, (RCP) Rule 351.
- District courts,
  - Appellate jurisdiction, condemnation proceedings, jurisdiction of 107th district court, 199(107), § 5a.
  - Board of Naturopathic Examiners, 4590d, § 10.
  - Registration of voters, appeal from registrar's decision on challenge to registration, 2977a, § 11.
  - Trial de novo, appeal from registrar's decision on challenge to registration of voters, 2977a, § 11.
- Expulsion or dismissal of student or employees of state-supported universities and colleges, advocating overthrow of government, 2908b.
- Interlocutory orders, (RCP) Rule 385.
- Lubbock County Court at Law,
  - Appeals and writs of error from, 1970-340, § 8.
  - Appeals from, 1970-340, § 24.
  - Appeals to, 1970-340, § 25.
- Notices and motions, delay, in mail, (RCP) Rule 5.
- Writ of error, petition and record, (RCP) Rule 473.

**APPOINTMENTS**

- Bailiff in counties having nine or more district courts, CCP 367g.
- Boards, examiners,
  - Basic science examiners, 4590c, § 3.
  - Chiropractic, 4512b, § 3.
- Juvenile officers for certain counties, 5142c, § 1.

**APPROPRIATIONS**

- Panola County Junior College, 2815j-2.
- Soil Conservation District, 165a-8, § 1.
- State hospitals and special school building fund, 7047c-1.

**ARANSAS COUNTY NAVIGATION DISTRICT NO. 1**

- Structure and powers, change, 8198 note.

**ARLINGTON STATE COLLEGE**

- Management, 2620a.
- Name changed from North Texas Junior Agricultural, Mechanical and Industrial College, 2620, 2620a.

**ARMED FORCE RESERVE**

- Public employees, leaves of absence, 5769b.

**ARMED FORCES**

- Judges, service counted for pension, 6228b.
- Minors over 18 serving in, removal of disabilities of minority, 5921a.
- State officers and employees,
  - Computation of prior service, compensation affected by period in armed forces, 6228a, § 5.
  - Credit for service in armed forces in computing retirement benefit, 6228a, § 5.
  - Leave of absence with pay, 5890a.
  - Retirement benefits not affected by absence while in armed forces, 6228a, § 3.

**ARMSTRONG COUNTY**

- Wild life resources, regulation and conservation, PC 978n-1.

**ARREST**

- Speeding, motor vehicles on beaches, PC 827f.
- Warrant,
  - Without warrant,
    - Speeding in automobiles on beaches, PC 287f.

**ASSAULT AND BATTERY**

- Aggravated assault, enticing and inviting child for purpose of committing aggravated assault, PC 535b.
- Athletic contests, throwing bottles, cushions, etc., PC 1146a.
- Lynching, generally, this index.
- Throwing bottles, cushions, etc., ball games, etc., PC 1146a.

**ATHLETIC CONTESTS**

- Assault and battery, throwing bottles, cushions, etc., penalty, PC 1146a.

**ATTACHMENT**

- Contempt, generally, this index.

**ATTORNEY GENERAL**

- Abilene State Hospital, representative of state to recover support, maintenance and treatment of non-indigent patients, 3232a, § 11.
- Approval of bonds,
  - Junior college districts, 2815h-5.
  - Refunding bonds, additional bonds for improvement and extending water and sewer systems, 1111a, 1111b.
  - Revenue bonds,
    - Additional bonds for improvement and extending water and sewer systems, 1111a, 1111b.
    - Cities over 175,000 for air conditioning municipal auditorium or theater, 835j.
    - State University for Negroes, 2643d, § 6.
    - Veterans' Land Board, 5421m, § 2.
- Basic Science Act, enforcement, 4590c, § 15.
- Child welfare agency, solicitation of funds, approval of proposed facility, 695c, § 8a.
- Children, improper care, prosecution, 695c, § 8a.
- Chiropractic act, enforcement, 4512b, § 17.
- Citrus Commission, representing in legal matters, 118d, § 6.
- Corporate charters,
  - Forfeiture, 7092.
- Forms prepared by, franchise tax release, 7090.
- Injunctions,
  - Citrus Commission Act, enforcement, 118d, § 6.
  - Commercial fishing law violations, PC 934b-2.
  - Real estate dealers, violations of law, 6573a, § 21.
- Inspection of records, child care and child placing agencies, 695c, § 8a.
- Legislative council, assistance, 5429b, § 6.
- Legislative Redistricting Board, member of, Const. art. III, § 28.
- State Board of Trustees, member and legal advisor of, 6228a, § 6.
- State park lands, member of leasing board, 6077c.

**ATTORNEYS**

- Fees, delinquent taxes in certain counties bordering Mexico, collection of, 7345e.

**AUCTION SALES**

- County real estate by commissioners' court, 1577.
- Oil and gas leases on state park lands, 6077c.

**AUDITORIUMS**

- Cities, air conditioning, revenue bonds, 835j.
- Commissioners court, construction or acquisition, 2370a.

**AUSTIN STATE HOSPITAL**

- Aged senile feeble-minded, authority of Board of Control to establish division for treatment, care and maintenance of, 3263c, § 5.

**AUSTIN STATE HOSPITAL (Cont'd)**

Name changed, 3174a.  
Texas State Hospitals and Special Schools as including, 3174b, § 3.

**AUSTIN STATE SCHOOL**

Mexia State School and Home, transfer to of feeble-minded persons capable of profiting from educational program, 3263c, § 1.

Name changed, 3174a.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**AUSTIN STATE SCHOOL FARM COLONY**

Name changed, 3174a.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**AUTOMATIC STATE TAX BOARD**

Ad Valorem Taxes, generally, this index.

**AUTOMOBILE INSURANCE**

Commissioners,

Exclusion from regulation, 4682b, § 1A.

Order, declaration of rating laws applicable to certain types of insurance, 4682b, § 1A.

Rates, order of commissioner declaring rating laws applicable to types of insurance, 4682b, § 1a.

**AVERAGE WEEKLY WAGES**

Defined, Workmen's Compensation Law for county employees, 8309c.

**BAILIFFS**

District Court, counties having nine or more district courts, CCP 367g.

Nueces County, 199(105).

Pay of, bailiff appointed in counties having nine or more district courts, CCP 367g.

**BALLOTS**

Communists, exclusion, 2978b.

Delivery to voter, 3008.

Form, detachable stubs, 2980, 3109.

Names of candidates on,

Loyalty affidavit, 2978a.

Numbering, 2980, 3109, 3122.

Stubs, 2980, 3008, 3109, 3122.

Deposit in stub box, 3012.

**BALMORHEA STATE PARK**

Oil and gas leases, 6077o.

**BANKING COMMISSIONER**

Franchise tax, state bank in liquidation, 7085.

Reports by commissioner, franchise taxes, 7085.

**BANKS**

Franchise tax, exemption, closed state banks, 7085.

Intoxicating liquors, warehouse receipts, sale on death of permittee or licensee, etc., PC 666-13.

Investments, bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf Coast, 6795b-1, § 7b.

Liquidation, franchise tax, 7085.

Stockholders,

Insurance companies, 4705.

**BARBITURATES**

Exemptions from regulatory law, PC 726b.

Misdemeanor, violation, PC 726b.

Persons authorized to prescribe, PC 726b.

Refilling prescription unlawful, PC 726b.

Sale without prescription unlawful, PC 726b.

**BARREDA STATE PARK**

Oil and gas leases, 6077o.

**BASEBALL**

Throwing bottles, cushions, etc., misdemeanor, penalty, PC 1146a.

**BASIC SCIENCES**

Board of examiners, 4590c, §§ 3, 4.

Appeal, 4590c, § 9.

Bribery, 4590c, § 13.

**BASIC SCIENCES (Cont'd)**

Board of examiners (Cont'd)

Fees, 4590c, § 5.

Injunction, 4590c, § 15.

Secretary-treasurer, bond, 4590c, § 4.

Certificates,

Naturopathic physicians, 4590d, § 18b.

Necessity and validity, 4590c, §§ 1, 10.

Practice without, 4590c, § 11.

Revocation, 4590c, § 10.

University graduate, 4590c, § 16-a.

Defined, 4590c, § 1.

Enforcement, 4590c, § 15.

Examinations, 4590c, §§ 5-7.

Exceptions, 4590c, § 16; PC 742b.

Certain students, 4590c, § 23a.

Healing art,

Defined, 4590c, § 2.

Practice,

Basic science certificate prerequisite, 4590c, § 1.

Unlawful, PC 742c.

Offenses and penalties, 4590c, §§ 12-14; PC 742c, PC 744a, PC 160a, PC 160b.

Reciprocity, 4590c, § 8.

**BASTROP STATE PARK**

Oil and gas leases, 6077o.

**BATTLESHIP "TEXAS"**

Commission of control authorized to accept from United States, 6145-2.

**BEACHES**

Definition, motor vehicle speed limit, PC 827f.

**BEDDING**

False statements in tags, 4476a, § 2.

Misdemeanors, violation of act relating to, 4476a, § 9.

**BENEFICIAL PURPOSE**

Definition, underground water conservation district, 7880-3c.

**BENEFICIARIES**

Defined, 6228a, § 1.

**BENTSEN-RIO GRANDE VALLEY STATE PARK**

Oil and gas leases, 6077o.

**BIDS**

Oil and gas leases on state park lands, 6077o.

**BIG GAME**

Hunting licenses, PC 895a.

**BIG SPRING STATE HOSPITAL**

Aged feeble-minded, Board of Control authorized to establish division for treatment of, 3263c, § 5.

Name changed, 3174a.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**BIG SPRING STATE PARK**

Oil and gas leases, 6077o.

**BILL OF SALE**

Stock, stock transfer stamps, 7047m, § 1½.

**BLANCO COUNTY**

County court, jurisdiction, 1970-310, 1970-337.

**BLANCO STATE PARK**

Oil and gas leases, 6077o.

**BLIND**

State Commission for Blind,

Chairman elected by board annually, 3207a.

**BOARD**

Defined,

Workmen's Compensation Law for county employees, 8309c.

**BOARD FOR STATE HOSPITALS AND SPECIAL SCHOOLS**

- Appointment of members, organization, etc., 3174b, § 2.
- Board of control,
  - Transfer of management, powers and duties respecting state hospitals and special schools, exception, 3174b, § 2.
  - Transfer of personal property for State hospitals and special schools, 3174b, § 9.
- Bonds, business manager, 3174b, § 10.
- Business manager, appointment, compensation, powers and duties, 3174b, § 10.
- Creation, composition, term of office, etc., 3174b, § 1.
- Executive director,
  - Appointment of business manager, 3174b, § 10.
  - Employment, compensation, bond, etc., 3174b, § 5.
- Lands, buildings, and facilities, authority of board to acquire, purposes, 3174b, § 8.
- Meetings, 3174b, § 4.
- Membership, 3174b, § 1.
- Organization of board, 3174b, § 5.
- Partial invalidity of law, 3174b, § 12.
- Per diem and expenses, 3174b, § 4.
- Personnel, authority of board to employ, etc., 3174b, § 5.
- Powers generally, 3174b, § 5.
- Purchases, board of control to continue purchases for state hospitals and special schools, 3174b, § 2.
- Quorum, 3174b, § 4.
- Record of proceedings of board, 3174b, § 4.
- Superintendent of institutions, compensation, 3174b, § 10.
- Term of office of members, 3174b, § 1.
- "Texas State Hospitals and Special Schools" defined, 3174b, § 3.
- United States, authority to acquire property from for tuberculosis sanatorium, etc., 3174b, § 8.
- Vacancies, filled by Governor, 3174b, § 1.

**BOARD OF CONTROL**

- Appointments by,
  - Superintendent, Abilene State Hospital, 3232a, § 2.
  - Superintendents, officers, and employees, etc., 3232a, § 2.
- Audit of books of Battleship "Texas" Commission, 6145—2.
- Austin State Hospital, aged senile division, establishment, 3263c, § 5.
- Austin State School, transfer of certain feeble-minded persons to Mexia State School and Home, 3263c, § 1.
- Big Spring State Hospital, aged senile division, establishment, 3263c, § 5.
- Board for Texas State Hospitals and Special Schools,
  - Transfer of rights, powers and duties, etc., exceptions, 3174b, § 2.
  - Transfer to of personal property for institutions transferred for state hospitals and special schools, 3174b, § 9.
- Chairman,
  - Member of,
    - State board of trustees, 6228a, § 6.
    - Youth Development Council, 5143c, § 4.
- Contracts, Texas Prison Board, purchase of products of prison for state agencies, etc., 6203c, § 9.
- Design, construction and maintenance division, public buildings, designing of, exceptions, 681.
- Destruction of valueless personal property by state agency, permission of board, etc., 666—2.
- Gonzales State Park, control of, 6074.
- Mexia State School and Home, this index.

**BOARD OF CONTROL (Cont'd)**

- Personal property of state, sale when unfit or unneeded, 666.
  - Powers, Abilene State Hospital, 3232a.
  - Purchasing division,
    - Affidavit, correctness of invoice, 655.
    - Certification by contractor or seller that invoice correct in lieu of affidavit of correctness, 655.
  - Commissioners courts, road machinery and equipment, tires and tubes, 2351d.
  - Equipment, soil conservation districts, 165a—8, § 2a.
  - Foundation school program, motor vehicles used for transporting pupils, 634(B).
  - Invoices,
    - Certification in lieu of affidavit of correctness, 655.
    - Inspection and transmission to board and comptroller, 657.
  - Motor vehicles for transporting school children, 634(B).
  - Rules and regulations, purchases of motor vehicles, etc., for transporting school pupils, foundation school program, 634(B).
  - Rusk State Hospital, aged senile division, establishment, 3263c, § 5.
  - San Antonio State Hospital, aged senile division, establishment, 3263c, § 5.
  - State comptroller, copy of authorization for destruction of personal property by state agency as valueless, 666—2.
  - State Parks generally, certain parks transferred to State Parks Board, 6067a.
  - State Tuberculosis Sanatorium for Negroes, equipment, supplies and property, transfer or retention, 3254a—1, § 14.
  - Terrell State Hospital, aged senile division, establishment, 3263c, § 5.
  - Texas School for the Blind, superintendent, contract of employment, 3202—c.
  - Texas School for the Deaf, superintendent, contract of employment, 3202—c.
  - Transfer of,
    - Unneeded state property or property unfit for use to state institution or agency in need thereof, 666—1.
  - Veterans' Land Board, purchase of supplies for board, 5421m, § 24.
  - Wichita Falls State Hospital, aged senile division, establishment, 3263c, § 5.
- BOARD OF EQUALIZATION**  
Water improvement district, 7661.
- BOARD OF NATUROPATHIC EXAMINERS**  
See Naturopathic, generally, this index.
- BOARDING HOMES**  
Child Welfare, this index.
- BOARDS**  
Examiners,
  - Basic Sciences, this index.
  - Chiropractic, this index.
  - Tuberculosis nurse examiners, 4528b, §§ 1-3, 7.- Legislative Budget Board, Legislature, generally, this index.
- Legislative Redistricting Board, Const. art. III, § 28.

**BOATS**  
Motor boat, operating while intoxicated, misdemeanor, PC 1333A.

**BONDS**  
Administrator appointed by Texas Real Estate Commission, 6573a, § 5.  
Appeal, (RCP) Rule 385.  
Filing, writ of error, application, (RCP) Rule 473.  
Business manager, Board for State Hospitals and Special Schools, 3174b, § 10.

**BONDS (Cont'd)**

Causeways, bridges and tunnels in Gulf coast counties of 50,000 or more, 6795b—1, § 2.

Commissioners courts,

Fire-fighting equipment, authority to issue for payment, 2351a—4.

Lands and housing facilities acquired from United States, 2351, subd. 19.

Executive director, Board for State Hospitals and Special Schools, 3174b, § 5.

Housing facilities, authority of commissioners courts to issue bonds to acquire and improve, 2351, subd. 19.

Injunction, temporary, state or subdivision, (RCP) Rule 684.

Investments, bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf Coast, 6795b—1, § 7b.

Judge of Lubbock County Court at Law, 1970—340, § 13.

Junior colleges and universities,

Dormitories, cottages, stadiums, 2815r.

Election to determine assumption by enlarged district, 2815s.

Juvenile Officer, 5142c, § 5.

Liquefied petroleum gas, licensee, 6053, § 11.

Lower Nueces River Water Supply District, 8197f note.

Municipal retirement system, 6243h, § 8.

Port of Beaumont Navigation District of Jefferson County, 8198 note.

Restraining order, state or subdivision, (RCP) Rule 684.

Sabine River Authority, 8197f note.

Seawalls, validation, 6839e.

Secretary-treasurer of board of tuberculosis nurses examiners, 4528b, § 3.

Soil conservation districts, officers and employees, 165a—8, § 4.

Supersedeas, (RCP) Rule 385.

Filing, writ of error, application, (RCP) Rule 473.

Telephone cooperative corporations, 1528c, §§ 4, 31.

Validation,

Municipal garage, 835k.

Municipal park band shell, 835k.

Seawalls, 6839e.

**BONHAM STATE PARK**

Oil and gas leases, 6077o.

**BOOKS AND PAPERS**

Legislative council, inspection and audit, 5429b, § 5.

Production,

Subpoena Duces Tecum, generally, this index.

**BOUNDARIES**

Junior college district having same boundary line as independent school district, 2815s.

**BRADY STATE SCHOOL**

Name changed, 3174a.

Texas State Hospitals and Special Schools as not including, 3174b, § 3.

Transfer to Youth Development Council, 5143c, § 8.

**BRAZORIA COUNTY DRAINAGE DISTRICT NO. 2.**

Validation of district and acts thereof, 8161d.

**BRIBERY**

Basic science board of examiners, 4590c, § 13; PC 160a, PC 160b.

**BRIDGES**

Contract or lease agreement for operation of bridge, etc., facilities, counties of 50,000 or more on Gulf Coast, 6795b—1, § 5a.

Federal aid, Gulf counties of 50,000 or more, agreements for acquisition of property and construction, 6795b—1, § 7a.

**BRIDGES (Cont'd)**

State and federal government and agencies, agreements for aid for construction, Gulf Coast Counties of 50,000 or more, 6795b—1, § 7a.

**BRISCOE COUNTY**

Wild life resources, regulation and conservation, PC 978n—1.

**BUDGET**

Director, powers and duties, 5429c.

Legislative Budget Board. Legislature, generally, this index.

**BUESCHER STATE PARK**

Oil and gas leases, 6077o.

**BUILDING AND LOAN ASSOCIATIONS**

Banking commissioner,

Action to annul certificate of authority, charter, etc., charging unlawful membership fee, cancellation fee, or withdrawal fee, 881a—44.

Foreign association, payment for examination, etc., 881a—63.

Investments approved by, 881a—37.

Certificate of authority, action to revoke, unlawful charging of membership fees, etc., 881a—44.

Charter, action to revoke, unlawful charging of membership fees, etc., 881a—44.

Closing place of business authorized, 881b.

Directors, closing place of business, authority, 881b.

Fees,

Foreign associations, 881a—61, 881a—63.

Membership fees, 881a—44.

Foreign,

Fees, 881a—61.

Filing fee in lieu of examination, 881a—63.

Right to do business in state, shareholder's rights, etc., 881a—57.

Shareholders, rights, powers, privileges, exemptions, etc., 881a—57.

Investments, bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf Coast, 6795b—1, § 7b.

Loans,

Restrictions, loans to officers, directors, etc., 881a—25.

Stock or shares,

Sinking funds, investment, cities, towns, school districts, etc., 836.

**BURIAL GROUNDS**

Commissioners court, purchase for burial of honorably discharged military personnel, 2372i.

**BUTANE GAS**

License to install appliances, 6053, § 7.

**BY-LAWS**

Telephone cooperative corporations, 1528c, §§ 4, 9-11, 14, 15, 17, 22.

**CADDO LAKE STATE PARK**

Oil and gas leases, 6077o.

**CALAMITY**

Time warrant issued by counties exceeding 300,000 without election, 2368f.

**CANADIAN RIVER**

Interstate Compact, generally, this index.

**CANALS**

Flood control, 1581e.

**CAPITAL OFFENSES**

Death sentence, execution,

Disposition of body, CCP 809.

Suspension, CCP 807.

**CARBON BLACK**

Definition, 7047, subd. 46(f).

Natural gas, use for manufacture prohibited, 6008, § 3.

Occupation tax on producer, 7047o.

**CARRIERS**

Antifreeze regulations, excepted, 165-6, § 8.  
Freight and livestock, refusal to receive or transport, uncertified vegetable plants, 118e, § 9.

**CARSON COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**CASTRO COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**CASUALTY COMPANIES**

Foreign companies, unauthorized to do business, Agent, licensing bond and tax, 5068e, § 2.  
Policies,

Actions on, 5068e, §§ 4-7.  
Regulation of placing, 5068e, § 1.

**CAUSEWAYS**

Contract or lease agreement for operation of causeway, etc., facilities, counties of 50,000 or more on Gulf Coast, 6795b-1, § 5a.

Federal aid, Gulf counties of 50,000 or more, agreements for acquisition of property and construction, 6795b-1, § 7a.

State and federal government and agencies, agreements for aid for construction, Gulf Coast counties of 50,000 or more, 6795b-1, § 7a.

**CEMENT DISTRIBUTORS**

Occupation taxes, additional taxes, 7017(41.a).

**CEMETERIES**

Commissioners courts, expenditures for upkeep and maintenance, 2351e.

**CENTRAL EDUCATION AGENCY**

Appeals from decisions of by persons aggrieved, foundation school program, 2922-19.

False swearing, furnishing incorrect information required by Foundation School Program Act, 2922-21, § 2.

**CENTRAL JURY ROOM**

Bailiff or sheriff to be in charge of, CCP 367g.

**CERTIFICATES**

Inspection, vegetable plants, 118e.

**CERTIORARI**

Appeals and writs of error, (RCP) Rule 351.

**CERTIORARI**

Lubbock County Court at Law, power to issue writs, 1970-340, § 16.

**CHARITABLE ASSOCIATIONS**

Free employment bureau,  
Labor agency law, exception, 5221a-5, § 2.  
Private employment agency law, exception, 5221a-6, § 2.

**CHIEF PROBATION OFFICERS**

Appointment, term of office, salaries, and automobiles furnished to, 5142a, § 1.

**CHILD-CARING INSTITUTIONS**

See Child Welfare, this index.

**CHILD-PLACING AGENCY**

Audit, 695c, § 8a.  
Boarding home, inspection and supervision, 695c, § 8a.  
Compensation for,  
Board of child, 695c, § 8a.  
Consultation, prohibited, 695c, § 8a.  
Placement prohibited, 695c, § 8a.  
Inspection, 695c, § 8a.  
Licensing, 695c, § 8a.  
Records, 695c, § 8a.  
Regulation, 695c, § 8a.  
Solicitation of funds, 695c, § 8a.  
State institutions exempt, 695c, § 8a.

**CHILD WELFARE**

Boarding homes, records, 695c, § 8a.  
Care, choice of agency, 695c, § 8a.  
Child-care agency,  
Audit, 695c, § 8a.  
Licensing, state institutions exempt, 695c, § 8a.  
Solicitation of funds, 695c, § 8a.  
Child-care facilities,  
Inspection, 695c, § 8a.  
Records, 695c, § 8a.  
Regulation, 695c, § 8a.  
State institutions exempt, 695c, § 8a.  
Creation of service fund, 695f.  
Day care centers, 695c, § 8a.  
Department of Public Welfare, this index.  
Licensed agencies, list, 695c, § 8a.  
Licensing, child-caring and child-placing institutions, 695c, § 8a.  
Solicitation of funds, proposed new facility, 695c, § 8a.

**CHILDREN**

Child Welfare, this index.  
Support order, disobedience, contempt, proceedings, (RCP) Rule 308-A.  
Youth Development Council, this index.

**CHILDRESS COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**CHIROPODISTS AND CHIROPODY**

Basic Science Act, exemption, 4590c, § 16; PC 742b.  
Exceptions, Basic Science Act, 4590c, § 16; PC 742-b.

**CHIROPRACTIC**

Basic Science Law, exception, 4590c, § 16; PC 742-b.  
Board of Chiropractic Examiners,  
Establishment, 4512b, §§ 3-5.  
Finances, 4512b, §§ 2, 9, 10, 11.  
Records, 4512b, § 5.  
Rule making power, 4512b, § 4.  
Seal, 4512b, § 22.  
Secretary-treasurer, bond 4512b, § 4.  
Transfer of fund, 4512b note.  
Definition, 4512b, § 1.  
Examination, 4512b, §§ 4, 10, 12.  
Licenses, 4512b, §§ 5-12.  
Practicing without, 4512b, § 6; PC 742c.  
Injunction, 4512b, § 18.  
Revocation, 4512b, §§ 14-16.  
Medical practice laws, exemption from, 4504, 4510, PC 740, PC 741.  
Naturopathic Physicians Practice Act, exception, 4590d, §§ 13, 18.  
Offenses and penalties, 4512b, § 19.  
Physicians and surgeons, not affected, 4512b, § 13.

**CHURCHES**

Ministration to the sick by prayer, Basic Science Law, exception, 4590c, § 16; PC 742b.

**CIGARETTE TAX**

Administration fund, 7047c-1, § 30a.  
Special fund, portion of taxes collected set apart in, 7047c-1, § 30a.  
Stamps,  
Change of denomination, 7047c-1, § 3.  
Exchange of stamp on change of denomination, 7047c-1, § 3.  
Offenses, PC 131c-1, § 26a.  
Possession of stamps of old denomination, PC 131c-1, § 26a.  
Redemption, 7047c-1, § 3.  
State hospitals and schools building fund, payment of tax into, 7047c-1.

**CISTERNS**

Cover, PC 1721.



**CITIES, TOWNS AND VILLAGES**

Aldermanic form of government, change from commission form, 1154.  
 Aldermen, commissioners to constitute, 1154.  
 Annexation of territory,  
   Cities of 5,000, 974-1.  
   Cities of 5,000 or less, 974g.  
   Contest, 974-2.  
   Procedure authorized cities or towns of 2,315 to 2,400, 974e-7.  
   Territory of water control and improvement districts or fresh water supply districts, 1182c-1, §§ 1-7.  
   Validation, 974c-4.  
     Annexation of territory discontinued from cities and towns of 2,000 or less, 973a.  
     Cities over, 5,000, 974c-2.  
 Auditorium, revenue bonds for air conditioning, 835j.  
 Bonds,  
   Air conditioning auditorium and theaters, 835j.  
   Attorney General,  
     Approval, examination, etc., 835j.  
     Power of approval restricted, parking lot revenue bonds, 835h.  
 Election,  
   Assumption of bonded indebtedness of irrigation, water control or improvement and water improvement districts annexed to city, 8280-2, § 4.  
   Hydro-electric generating system, 1118q.  
   Revenue bonds, new issue after retirement of existing bonds, 1118n-5.  
 Fire trucks and equipment, validation, 835i.  
 Funding and refunding,  
   Fish market revenue bonds, 1187c, § 7.  
 Holder's rights on retirement before maturity, revenue bonds, 1118n-5.  
 Home rule cities, revenue and refunding bonds for extending water and sewer systems, etc., 1111a.  
 Investment of,  
   Assets of Texas municipal retirement system, 6243h, § 8.  
   Funds in bridge and causeway bonds of Gulf counties, 6795b-1, § 7b.  
 Light and power systems, revenue and refunding bonds, additional issuance for extension of system, etc., authorized, 1111b.  
 Natural gas system revenue bonds, cities over 50,000, 1015h.  
 Park band shell, 835k.  
 Parking lot improvement, cities under 60,000, 835h.  
 Sewers, sewerage and sewer systems,  
   Refunding bonds,  
     Additional bonds authorized for extension and improving system, 1111a.  
   Revenue bonds,  
     Additional bonds authorized for improvement of system, etc., 1111a.  
     Additional, deposit with state treasurer, 1118n-5.  
     Retirement, 1118n-5.  
 Theaters, air conditioning, cities of 175,000, 835j.  
 Validation,  
   Fire trucks and equipment, 835i.  
   Municipal garage, 835k.  
   Seawalls, 6339e.  
 Waterworks and water supply, revenue bonds,  
   Additional, deposit with state treasurer, 1118n-5.  
   Additional revenue bonds to improve and extend system authorized, 1111a.  
   Retirement, 1118n-5.  
 Books and records, inspection, legislative council, 5429b, § 5.

**CITIES, TOWNS AND VILLAGES (Cont'd)**

Boundaries,  
   Discontinuing territory,  
     Validation of discontinuance of territory by cities and towns of 2,000 or less, 973a.  
   Validation of boundaries,  
     After discontinuance of territory by cities and towns of 2,000 or less, 973a.  
     Cities of 5,000 or less, 974d-2.  
 Carbon black plant near, restriction, 6008a-1.  
 Clerk or secretary,  
   Intoxicating liquors, certification whether license applicant located in wet area, etc., PC 666-54.  
   Map showing boundaries and territory annexed to be kept by, 971a.  
 Commission form of government,  
   Change to aldermanic form, 1154.  
 Consolidation,  
   Annexation of territory of water control and improvement districts or fresh water supply districts, 1182c-1, §§ 1-7.  
   Municipality having zoning ordinance, 976a.  
 Contracts,  
   Annexation of territory of water control improvement district or fresh water supply district, 1182c-1, § 2.  
   Commissioners' court, flood control project, 1581e.  
   Sale of hydro-electric power, continued on acquisition of plant, 1118q.  
   Validated, 2668a-1.  
   Water supply, contracts with water, etc., districts, authorized, 1109e.  
 Discontinuing territory, cities and towns of 2,000 or less, validation, 973a.  
 Electric light and power systems,  
   Extension outside city limits, use of streets, roads and highways, 1436a.  
   Hydro-electric generating facilities, acquisition, 1118q.  
   Sale of surplus power, 1118q.  
 Electric light companies, use of streets, 1436a.  
 "Eligible city",  
   Natural gas system revenue bonds, 1015h.  
 Engineer, map showing boundaries and changes by annexation to be kept by, 971a.  
 Financial statements, failure to publish, 6252-2.  
 Fire trucks and equipment, validation of bonds, 835i.  
 Fish markets, leases, 1187c, § 7.  
 Flood control, co-operation with county, 1581e.  
 Funds,  
   Investment,  
     Bridge and causeway bonds of counties of 50,000 or more on Gulf, 6795b-1, § 7b.  
     Transfer to general fund, revenues of city owned utilities, 1113a.  
   Governing body, powers as to ordinances, rules, police regulations, etc., 1011.  
 Health program, co-operation in coordinated program, 4447a.  
 Health units, county-city units, creation and support, authority, Const. Art. 3, § 48-b.  
 Incorporated cities defined, 8280-2, § 1.  
 Incorporation, validation, cities and towns of 5,000 or less, 974d-2.  
 Independent school districts,  
   Tax rate, 2815g-43, § 2.  
   Validation, 2815g-43, § 1.  
 Irrigation district, withdrawal of land in incorporated town from district, 8280-2.  
 Laboratories, standard serologic test for syphilis, 4445a, § 2.  
   Premarital, 4612a.  
 Legal notices, failure to publish, 6252-2.  
 Maps, boundaries and annexations of territory to be shown, 971a.  
 Marshal, dispensing with office by ordinance, cities or towns of 5,000 or less, 999a.

**CITIES, TOWNS AND VILLAGES (Cont'd)**

- Natural gas system, revenue bonds, additional bond issue authorized to acquire buildings, etc., cities of over 50,000, 1015h.
- Officers and agents in general,
  - Appointment or election, ordinance determining, 977.
  - Payroll deductions for United States bonds, 6252-3.
- Police regulations, power of council to adopt, 1611.
- Powers,
  - Emergency, rent control, 12697-1.
  - Water mains, power to lay on roads outside city limits, 1433a.
- Public buildings, municipal auditorium or theater, revenue bonds, air conditioning, 835j.
- Public utilities,
  - Transfer of revenues of to general fund of city, cities of 200,000 or over, 1113a.
- Rent control, housing emergency, 12697-1.
- Streets and alleys,
  - Electric companies, 1436a.
- Theaters, municipal, air conditioning, revenue bonds, 835j.
- Validation,
  - Ad valorem taxes not exceeding legal limits, 2790a-6.
  - Annexation of territory, 973a.
    - Cities and towns of 5,000 and less, 974c-1.
    - Cities of 5,000 or less, 974c-3.
    - Cities over 5,000, 974c-2.
  - Boundaries of cities and towns of 2,000 or less after discontinuance of territory, 973a.
  - City charter amendments, ordinances, etc., defining boundaries or annexing territory, 974c-4.
  - Discontinuance of territory of cities and towns of 2,000 or less, 973a.
  - Ordinances or resolution to ascertain population, 976b.
- Water control and improvement districts,
  - Contracts to supply city with water authorized, 1109e.
  - Exclusion of land in incorporated city from district, 8280-2.
- Water districts, removal of land, 8280-4.
- Water improvement district, exclusion of land in incorporated city from district, 8280-2.
- Water mains, relocation at city's own expense outside city limits on widening road, 1433a.
- Zoning,
  - Annexation or merger of city having zoning ordinance with other municipality, 976a.

**CITRUS**

- Carbon black plant near orchards, restriction, 6008a-1.

**CITRUS COMMISSION**

- Advertising, 118d, § 9.
- Attorney General, counsel, 118d, § 6.
- Audit, 118d, § 7.
- Authentication of proceedings, 118d, § 5.
- Brands or trade-names, 118d, § 9.
- By-laws, 118d, § 4.
- Commissioners,
  - Compensation, 118d, § 3.
  - Expenses, 118d, § 3.
  - Members, 118d, § 1.
  - Qualifications, 118d, § 1.
  - Removal from office, 118d, § 1.
  - Resignation, 118d, § 1.
  - Term of office, 118d, § 2.
  - Vacancies, 118d, § 2.
- Contracts, 118d, § 4.
- Enforcement, 118d, §§ 6, 17.
- Establishment, 118d, § 1.
- Executive committee, 118d, § 4.
- Grade and size regulations,
  - Hearing, 118d, § 10.
  - Inspection certificates, 118d, § 13.

Tex.St.Supp. '50-54

**CITRUS COMMISSION (Cont'd)**

- Grade and size regulations (Cont'd)
  - Investigation, 118d, § 10.
  - Publicity, 118d, § 11.
  - Standards, 118d, § 11.
  - Violation, 118d, § 12.
- Hearings,
  - Grade and size of fruit, 118d, § 10.
  - Order, 118d, § 8.
  - Rules or regulations, 118d, § 8.
  - Subpoena, 118d, § 10.
  - Suspension of order, etc., 118d, § 8.
- Injunction, 118d, § 6.
- Newspapers, publication of reports, 118d, § 7.
- Officers, 118d, § 4.
- Orders,
  - Adoption, 118d, § 9.
  - Hearing, 118d, § 8.
  - Suspension, 118d, § 8.
- Powers, 118d, §§ 5, 9, 10.
- Purpose, 118d, § 20.
- Quorum, 118d, § 5.
- Records, evidence, 118d, § 5.
- Reports, 118d, § 7.
- Research, 118d, § 9.
- Review, 118d, § 8.
- Rules and regulations,
  - Adoption, 118d, § 9.
  - Force of law, 118d, § 9.
  - Grade and size, 118d, § 10.
  - Hearing, 118d, § 8.
  - Suspension, 118d, § 8.
- Taxation,
  - Bond, 118d, § 16.
  - Deposit of proceeds, 118d, § 18.
  - Exemption certificate, 118d, §§ 14, 16.
  - Exemptions, 118d, § 14.
  - Levy, 118d, § 14.
  - Payment, 118d, § 15.
  - Records, 118d, § 15.
- Venue, 118d, § 6.

**CITRUS FRUIT INSPECTION FUND**

- Payments into, license fees, agricultural commodities, 1287-1, § 4.
- Payments out of, vouchers approved by Commissioner of Agriculture, 1287-1, § 4.

**CITY COMMISSION**

- Lands, removal from water district taxation, 8280-4.

**CLEARANCE FUND**

- Farm-to-market road fund, transfer of funds to, 7083a.
- Foundation school fund, allocation and transfer of credit to fund, 7083a.

**CLEBURNE STATE PARK**

- Oil and gas leases, 6077o.

**CLERGYMEN**

- Ministers of the Gospel, generally, this index.

**CLERKS**

- Court of Civil Appeals, opinion, delivery, attorneys and trial court clerk, (RCP) Rule 456.
- Supreme Court, opinion, delivery, attorneys and trial court clerk, (RCP) Rule 456.

**CLUBS**

- Solicitation of funds, child welfare purposes, 695c, § 8a.

**COIN OPERATED MACHINES**

- Corporations, creation for purpose of owning, selling or hiring, 1302, par. 108.

**COLLEGE OF ARTS AND INDUSTRIES**

- Citrus fund, 118d, § 18.

**COLLEGE OF MINES AND METALLURGY**

- Name changed to "Texas Western College of the University of Texas," 2633a.

**COLLEGES AND UNIVERSITIES**

- Advocating overthrow or destruction of United States or state government, etc., expulsion or dismissal of student or employee, 2908b.
- Appeals, dismissal or expulsion of student or employee advocating overthrow of government, 2908b.
- Employees, oath of allegiance, 2908b.
- Oath of allegiance by students and employees, 2908b.
- State University for Negroes, generally, this index.
- Students, oath of allegiance, 2908b.
- Tarleton State College. John Tarleton Agricultural College, this index.
- Transfer of property of dissolved junior college district to senior college in district, 2315q.
- Tuition, exemption of orphans from state orphanages, state owned colleges, 2654F.

**COLLINGSWORTH COUNTY**

- Wild life resources, regulation and conservation, PC 978n-1.

**COLORADO RIVER MUNICIPAL WATER DISTRICT**

- Creation, etc., foll. 8197f.

**COLORED PERSONS**

- State University for Negroes, generally, this index.

**COMANCHE COUNTY**

- Game and fish, open season for fishing, PC 952f-7.

**COMMERCIAL FISHERMAN**

- Definition, PC 934b-2.

**COMMERCIAL FISHING**

- Fines and penalties, PC 934b-2.

**COMMERCIAL FISHING BOAT**

- Definition, PC 934b-2.

**COMMISSION**

- Citrus Commission, generally, this index.

**COMMISSION MERCHANTS**

- Agricultural commodities, license, fees paid into state treasury as Citrus Fruit Inspection Fund, 1287-1, § 4.
- Livestock auction, records of motor vehicles, etc., on which livestock transported for sale, 1287a, § 3a.
- Livestock commission merchants, penalties, records of vehicles transporting livestock for sale, 1287a.

**COMMISSIONER OF EDUCATION**

- Foundation school fund budget committee, member, 7083a.

**COMMISSIONER OF LABOR STATISTICS**

- Labor agency law, enforcement, 5221a-5.
- Private employment agency law, powers and duties, 5221a-6.

**COMMISSIONERS**

- Battleship "Texas" commission, 6145-2.
- Citrus Commission, generally, this index.
- Interstate Compact Commissioner, generally, this index.
- King's Memorial State Park, 6077i.
- Navigation and Canal Commissioners, this index.
- Pecos River Commissioner, 7466f.

**COMMISSIONERS' COURTS**

- Agricultural buildings, acquisition and construction, counties of 90,000 to 225,000, 2372j.
- Airports, lease of airports or facilities authorized, 2351, subd. 18.
- Approval,
  - Changes in salaries, criminal district attorney, assistants, counties of 350,000, 3921e-14.

**COMMISSIONERS' COURTS (Cont'd)**

- Approval (Cont'd)
  - Chief Probation Officer's salary, 5142a, § 1.
  - Compensation of seasonal employees employed by district clerk, counties of 30,400 to 31,150, 3903e.
  - Employment of seasonal employees by district clerks, counties of 30,400 to 31,150, 3903e.
- Board of Control, purchases through, 2351d.
- Bonds,
  - Election revoking authority, validation, 717f.
  - Farm-to-market and lateral roads, 7048a, § 10.
  - Fire-fighting equipment, purchase, 2351a-4.
  - Flood control, 7048a, § 10.
  - Horticultural and agricultural exhibition buildings and improvements, 2372d-2.
  - Housing facilities and lands acquired from United States, 2351, subd. 19.
  - Oversize or overweight commodities, transportation, PC 827a.
- Bridges, tunnels, causeways, authority to lease facilities, counties of 50,000 or more on Gulf Coast, 6795b-1, § 5a.
- Burial grounds, purchase for honorably discharged war veterans, 2372i.
- Cemeteries, certain counties, authority to make expenditures for maintenance and upkeep, 2351e.
- Chief Probation Officer's salary approved by Court, 5142a, § 1.
- Contracts,
  - Flood control projects, 1581e.
  - Oil, gas or minerals on airport properties, power to contract respecting, 2351, subd. 18.
  - Validated, 2368a-1.
  - Water, contract to sell, 2351, § 20.
- Conveyances, housing facilities and lands acquired from United States, 2351, subd. 19.
- Co-operation with, political subdivisions of state, flood control projects, 1581e.
- County auditors,
  - Compensation, approval by commissioners court, counties of 35,000 or more, 1645.
  - Employment, two or more counties under 25,000 each, 1646b.
- County hospital, lease or sale, 4494k, 4494m.
- Hearing, 4494l.
- County law libraries, establishment, powers, etc.,
  - Counties of 27,000 located in two judicial districts composed of four counties, 1702f.
  - Counties of 29,500 to 30,000 having no Court of Civil Appeals, 1702g.
  - Counties of 30,000 to 250,000, 1702e.
- County office buildings, etc., construction or acquisition, 2370a.
- Counties of 90,000 to 225,000, 2372j.
- Delinquent tax collections, certain counties bordering Mexican boundary, 7345e.
- Deputy county clerk, chief deputy, compensation, counties of 35,000 to 40,000, 3902i.
- Elections,
  - Revoking bond authority, validation, 717f.
- Employees, deputies and assistants, counties of 301,000 to 398,000, 3912e-15.
- Farm-to-market roads, fund, management, 7048a, § 4.
- Fire fighting equipment,
  - Purchase, bond issue, taxation, etc., 2351a-4.
- Flood control,
  - Co-operation, other agencies, 7048a, §§ 5, 5a.
  - Fund, management, 7048a, § 5.
  - Projects, 1581e.
- Grand jury bailiffs, automobile allowance authorized, counties of 300,000 to 425,000, CCP 367f.

**COMMISSIONERS' COURTS (Cont'd)**

Health program, co-operation in establishment of co-ordinated program, 4447a.  
 Highways, power to authorize electric lines along right of way, 1436a.  
 Horticultural and agricultural exhibition buildings and improvements, authority to purchase, build or construct, 2372d-2.  
 Housing, authority to acquire from United States, etc., 2351, subd. 19.  
 Interpreters appointed by Commissioners' Court for judicial districts in counties bordering on International Boundary, 3737d.  
 Jail facilities, acquisition and construction of additional, counties of 90,000 to 225,000, 2372j.  
 Judge of Lubbock County Court at Law appointed by, 1970-340, § 11.  
 Justices of the peace, compensation, counties in excess of 350,000, 3936h.  
 Juvenile officers' compensation approved by, 5142c, § 1.  
 Lands, authority to acquire from United States government, issuance of bonds, etc., 2351, subd. 19.  
 Lateral roads, fund, management, 7048a, § 4.  
 Lease,  
   County hospital, counties of 22,000 to 22,800, 4494m.  
   Housing facilities and lands acquired from federal government, 2351, subd. 19.  
 Minerals, power to contract respecting on airport properties, 2351, subd. 18.  
 Mosquito control districts in certain counties, submission to vote, 4477-2.  
 Motor vehicles, probation officers, 5142b, § 17.  
 Natural resources, power to contract respecting, airport properties, 2351, subd. 18.  
 Notice,  
   Laying by city of water mains outside city limits, 1433a.  
   Water company, intention of laying mains, 1433.  
 Oil and gas, power to contract respecting on airport properties, 2351, subd. 18.  
 Oil, gas or mineral leases, lands acquired from United States, 2351, subd. 19.  
 Permits, oversize or overweight commodities, transportation, PC 827a.  
 Power lines along highway, power to authorize, 1436a.  
 Rates for water sold by commissioners, power to fix, 2351, § 20.  
 Roads, power lines along right of way, 1436a.  
 Salaries,  
   Assignment clerk, certain districts, 2093e.  
   Certain counties,  
     43,900 having tax valuation of \$14,000,000 to \$17,000,000 and having a state park, 2350m note.  
     301,000 to 398,000, 3912e-15.  
     350,000 or more, 2350, § 2a.  
     Population of not over 65,000, 2350(6).  
   Chief deputy county clerk, counties of 35,000 to 40,000, 3902i.  
   Chief Probation Officer, approval, 5142a, § 1.  
   Constables, fixing, certain counties, 3936g.  
   County judges, sheriffs, etc., counties of 398,000 or over, 3912h.  
   Criminal district attorney, assistants, counties of 350,000, 3912e-14.  
   Justices of the peace,  
     Counties of over 350,000, 3936h.  
     Fixing, certain counties, 3936g.  
   Juvenile officers, 5142c, § 1, 5142d.  
   Officers of precinct, county and district, power to increase, maximum and minimum, 3912g.  
   Probation officers, juvenile, 5142d.  
   Publication of notice of intention to increase salaries of officers, 3912g.

**COMMISSIONERS' COURTS (Cont'd)**

Sale, county hospital, counties of 22,000 to 22,800, 4494m.  
 Sale or lease of real estate, procedure, 1577.  
 Schools and school districts,  
   Advisory supervision over, 2744e-6, § 10.  
   Validation of,  
     Acts concerning, 2815g-39, 2815g-40.  
     Acts of commissioner, 2815g-43, § 1.  
     County-wide maintenance tax, steps taken, 2744e-6, § 12.  
 Taxation,  
   Ad valorem tax,  
     Apportionment, 7048a, § 3.  
     Election, 7048a, §§ 7-9.  
   Collection, anticipation of cancelled bond issue, validation, 717f.  
   Compilation of tax data, compensation of person, firm, etc., employed, 7212.  
   County-wide maintenance tax in certain counties, 2744e-6, §§ 3, 4.  
   Fire-fighting equipment, levy to purchase, 2351a-4.  
   Levy of tax,  
     Horticultural and agricultural exhibition buildings, etc., 2372d-2.  
     Interest and sinking fund, bonds for lands and housing facilities acquired from federal government, 2351, subd. 19.  
   Time warrants, authority to issue,  
     Counties exceeding 300,000, 2368f.  
     Purchase of fire-fighting equipment, 2351a-4.  
   Traveling expenses in,  
     Certain counties, 2350.  
     Assessed valuation of \$15,000,000 and population of not over 65,000, 2350(6).  
 Veterans County Service Office, created by, 5798a-2.  
 Warrants,  
   Time warrants,  
     Power to issue in counties exceeding 300,000, 2368f.  
     Purchase of fire fighting equipment, 2351a-4.  
   Validation of certain warrants issued, 2372d-1.  
 Water, power to sell, 2351, § 20.  
 Water companies, relocation of lines on widening streets, 1433.  
 Workmen's compensation for county employees, duties respecting, 8309c.  
**COMMISSIONERS FOR STATE OF TEXAS**  
 Salary, 6819a-6.  
**COMMITTEES**  
 Executive committee of telephone cooperative corporation, 1523c, § 17.  
**COMMUNISTS**  
 Exclusion from ballot, 2978b.  
**COMMUNITY PROPERTY**  
 Exchange of community property between spouses, Const. art. XVI, § 15; 4624a.  
 Instrument partitioning or exchanging community property between spouses, Const. art. XVI, § 15.  
 Partition,  
   Agreement, 4624a.  
   Severalty or in equal undivided interest, Const. art. XVI, § 15.  
 Record of instrument partitioning or exchanging property between spouses, Const. art. XVI, § 15.  
 Separate property, community property exchanged between spouses becoming separate property, Const. art. XVI, § 15.  
**COMMUTATION**  
 Sentences to prison, 6184f.

**COMPACT**

Canadian, Red and Sabine Rivers, negotiation of compact, 7466g.  
Gulf states marine fisheries compact, 4075a.  
Pecos River Compact, 7466f.

**COMPTROLLER OF PUBLIC ACCOUNTS****Bonds,**

Registration of bonds,  
Veterans' Land Board, 5421m, § 2.

Foundation school fund budget committee, member, 7083a.

Legislative Redistricting Board, member of, Const. art. III, § 28.

Occupation taxes, oil and gas well services, 7060b.

Reports, personal property destroyed by state agency as valueless, 666—2.

State agencies and institutions, debiting and crediting accounts, property transferred by board of control as unneeded or unfit for use, 666—1.

**Warrants,**

Employment agency fund, 5221a—5, § 9,  
5221a—6, § 17.

**CONCURRENT JURISDICTION**

Flood control, land acquired by United States for purpose of, 5248i.

Lubbock County Court at Law and justice courts, 1970—340, §§ 3, 5.

**CONFEDERATE HOME**

Name changed, 3174a.

Pension of veterans admitted to home, 6221.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**CONFEDERATE WOMANS HOME**

Name changed, 3174a.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**CONSERVATION AND RECLAMATION DISTRICTS**

Colorado River Municipal Water District, creation, etc., foll. 8197f.

Eastland County, creation, etc., foll. 8197f.

Jim Wells-Duval Counties, creation, etc., foll. 8197f.

Panhandle Water Conservation Authority, expansion, foll. 8197f.

Sabine River Authority, 8197f note.

Trinity Bay Conservation District, creation, etc., foll. 8197f.

**CONSIGNMENT SALES**

Intoxicating liquors, interest of permittee in consignment sale unlawful, PC 666—53.

**CONSOLIDATION**

Consolidated,

Independent districts, validation, 2815g—43,  
§ 1.

School districts, 2815g—43, § 1.

Rural high school districts, validation, 2815g—43,  
§ 1.

Telephone cooperative corporations, 1528c, §§ 20,  
28.

**CONSTABLES**

Automobile allowance for expenses, certain counties, 6889b.

Compensation,

Automobile expense allowance, certain counties, 6889b.

Counties having eight district courts, including two criminal district courts and four county courts, including two county courts at law and one county criminal court, 3936g.

Salary basis, Const. art. XVI, § 61.

Deputies and assistants,

Counties of 301,000 to 398,000, 3912e—15.

Salary basis for compensation, Const. art. XVI, § 61.

**CONTAINERS**

Defined, Liquor Control Act, PC 666—3a.

**CONTEMPT**

Child support order, disobedience, (RCP) Rule 308—A.

Witnesses,

Legislative council, 5429b, § 5.

**CONTINGENT FUTURE INTEREST**

Leasing of lands subject to, development of oil, gas and other minerals, receiver, 2320c.

**CONTINGENT INTERESTS**

Guardian, power to convey, 4168.

**CONTRACT CARRIERS**

Gross receipts tax, additional tax, 7066c.

Occupation taxes, additional taxes, 7066c.

**CONTRACTS**

Guardian and ward, conveyance of contingent interest, 4168.

Telephone cooperative corporations, 1528c, § 4.

**CONTRIBUTIONS**

Bridges, causeways, and tunnels in Gulf counties of 50,000 and over, acceptance of contributions from state and federal governmental agencies, 6795b—1, § 7a.

**CONVERSION**

Foundation school program, 2922—21.

**CONVEYANCES**

Record, community property, between spouses, 4624a.

**CONVICTS**

Appeal on removal from overtime job assignment, 6184l.

Behavior, commutation for, 6166v, 6184l.

Classification Committee, 6184l.

Commutation for good conduct, 6166v, 6184l.

Conduct records, 6184l.

Deduction from sentence,

Good conduct, 6166v, 6184l.

Disciplinary Committee, 6184l.

Forfeiture of commutation time, 6184l.

Good conduct as ground for commutation of time, 6166v, 6184l.

Industry as ground for commutation of time, 6184l.

Misconduct, commutation, 6184l.

Obedience as ground for commutation of time, 6184l.

Overtime,

Allowance or credits, 6184l.

Job assignment credits, 6184l.

State approved trustees, deduction from sentence, 6184l.

Trustees,

Deduction of sentence of state approved trustees, 6184l.

**COOKING APPLIANCES**

License to connect, etc., liquefied petroleum gas facilities, 6053, § 7.

**COOPERATIVE TELEPHONE CORPORATIONS**

Sec, Telephone Cooperative Corporations, this index.

**CORPORATION COURTS**

Appeals,

Cities of 380,000, 1200c, § 4.

Home rule cities of 31,000 to 32,500, 1200b.

Clerk,

Cities of 380,000, 1200c, § 3.

Home rule cities of 31,000 to 32,500, 1200b.

Establishment, cities of more than 380,000, 1200c.

Home rule cities,

31,000 to 32,500, authorization, 1200b.

Validation, 1196(a).

**CORPORATION COURTS (Cont'd)****Judges,**

- Cities of 380,000, 1200c, § 1.
- Home rule cities,  
Official title, 1196(a).

**Jurisdiction,**

- Cities of 380,000, 1200c, § 2.
- Home rule cities of 31,000 to 32,500, 1200b.

**Practice and procedure,**

- Cities of 380,000, 1200c, § 4.
- Home rule cities of 31,000 to 32,500, 1200b.

**Recorder,**

- Cities of 380,000, 1200c, § 3.
- Home rule cities of 31,000 to 32,500, 1200b.

**CORPORATIONS**

Aircraft terminals, operation authorized, 1302g.

**Charters,****Forfeiture,**

- Attorney General, suit, 7092, 7095.
- Franchise tax, failure to pay, 7092a.
- Process, 7095.

Coin operated vending machines, creation of corporation for purpose of owning, selling or hiring, 1302, par. 108.

Defined, 1528c, § 2.

Dissolution, distributive share, unknown stockholder, 1395a.

Doing business, forfeiture of right. Franchise taxes, generally, this index.

Electrical music machines, creation of corporation for purpose of owning, selling or hiring, 1302, par. 108.

**Free employment bureau,**

- Labor agency law, exception, 5221a-5, § 2.
- Private employment agency law, exception, 5221a-6, § 2.

Oil and gas well servicing, organization for, 1302h.

Pensions and pension plans, 1327a.

Phonographs, creation of corporation for purpose of selling, repairing or hiring, 1302, par. 108.

Scales, incorporation for purpose of owning, maintaining and operating, 1302, subd. 108.

**Stockholders,**

- Dissolution of corporation, escheat, distributive share of unknown stockholder, 1395a.

Telephone Cooperative Corporations, this index.

Vending machine, creation of corporation for purpose of owning, selling or hiring, 1302, par. 102.

**COSTS****County law libraries,**

- Tax for maintenance, counties of 30,000 to 250,000, 1702e.

**Deposit for,**

- Court of Civil Appeals, (RCP) Rule 388-A.
- Supreme Court, (RCP) Rule 485.

Security for, intoxicating liquors, not required in license issuance proceedings of Liquor Control Board representative, PC 667-30.

**COTTLE COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**COTTON****Research committee,**

- Composition, powers, etc., 165-4a.
- Expenditure of appropriations, compensation, quorum, 165-4b.

**COUNCIL**

Contracts, validated, 2368a-1.

Legislative. See Legislature, generally, this index.

Powers, 1011.

**COUNTERFEITING**

Basic science certificate, penalty, 4590c, § 12; PC 744a.

**COUNTIES****Airports, acquisition, etc.,**

- Counties of from 6,141 to 6,150, 1581d.

Books and records, inspection, legislative council, 5429b, § 5.

**Cemeteries,**

- Certain counties authorized to make expenditures for maintenance and upkeep of public cemeteries, 2351e.

**Contracts,**

- Validated, 2368a-1.

County laboratories, standard serologic test for syphilis, premarital, 4612a.

**County seats,**

- District court, proceedings at, exception, Const. Art. 5, § 7.

Defined, Workmen's Compensation Law for county employees, 8309c.

**Elections,**

- Time warrants, issuance by counties exceeding 300,000, 2368f.

**Eminent domain,**

- Flood control, 1581e.

**Employees,**

- Payroll deductions for United States bonds, 6252-3.

Workmen's compensation insurance,

- Authorized for, 8309c.

Legislative power to authorize counties to provide insurance, Const. art. III, § 60.

Flood control, 1581e.

Gulf of Mexico, bordering on,

- Parks on islands, 6079c.

Health program, co-operation in establishment of coordinated program, 4447a.

**Health units,**

- County-city units, creation and support, authority, Const. Art. 3, § 48-b.

Housing facilities, lease or sale of acquired from federal government, 2351, subd. 19.

**Real estate,**

- Lease or conveyance of lands acquired from federal government, 2351, subd. 19.

Lease or sale by commissioners' court, procedure, 1577.

**Records,**

- Workmen's compensation for county employees, 8309c.

Reports, injuries to employees, workmen's compensation, 8309c.

Retirement, disability and death compensation fund, death of member, disposition of contributions, 6228d.

Rules and regulations, workmen's compensation for county employees, 8309c.

Time warrants, issuance by counties exceeding 300,000, 2368f.

Veterans County Service Officer, 5798a-2.

Workmen's compensation insurance,

- Authorized for employees, 8309c.

Legislative power to authorize counties to provide, Const. art. III, § 60.

**COUNTY ATTORNEYS****Assistants,**

- Counties of 13,000 on Mexican border, having \$20,000,000 taxable property valuation, 331f.

Counties of 27,050 to 27,075 having two or more district courts, 331d.

Counties of 50,900 to 60,000 having no district attorney, 331e.

Basic Science Act, enforcement, 4590c, § 15.

Chiropractic act, enforcement, 4512b, § 16.

**Compensation,**

- Assistants or deputies, counties of 27,050 to 27,075 having two or more district courts, 331d.

Counties of 50,900 to 60,000 having no district attorney, 331e.

Counties of 90,000 to 145,000, 3912e-16.

Counties of 145,000 to 250,000, 3912e-16, § 2.

**COUNTY ATTORNEYS (Cont'd)**

District attorney's duties performed by, 7th judicial district, 326k-13.  
 Fees, Lubbock County Attorney, 1970-340, § 11.  
 Financial statements, action against officers failing to publish, 6252-2.  
 Game, fish and oyster commission's orders relating to depletion of wild life resources in certain counties filed with, PC 978n-1, § 10.  
 Juvenile Officer to report to, 5142c, § 3.  
 Legal notices, action against officers failing to publish, 6252-2.  
 Naturopathic Practice Act, enforcement, 4590d, § 10.  
 Real estate dealers, injunction action against dealers violating statute, 6573a, § 21.  
 Seventh judicial district, 326k-13.  
 Tuberculosis nurses law, assistance in enforcing, 4528b, § 2.  
 Workmen's compensation, representation of county, claim of injury to county employee, 8309c.

**COUNTY AUDITOR**

Approval, compensation, criminal district attorney, assistants, counties of 350,000, 3912e-14.  
 Compensation,  
   Counties of 33,200 to 33,600, 1645a-5.  
   Two or more counties under 25,000, 1646b.  
 Deputies and assistants, counties of 301,000 to 398,000, 3912e-15.  
 Employment by more than one county under 25,000, 1646b.  
 Juvenile Officers, inspection of records and audit of accounts of, 5142c, § 6.  
 Personnel Act as applicable to, counties of 500,000 or more, 2372h, § 6.  
 Purchasing agent in counties of 90,000 to 225,000, 1645a-1, § 2.

**COUNTY CLERKS**

Compensation,  
   Commissioners court, power to fix maximum and minimum, counties of 398,000 or over, 3912h.  
   Counties of 35,000 to 40,000, chief deputy clerk, 3902i.  
   Counties of 90,000 to 145,000, 3912e-16.  
 Deputies and assistants,  
   Chief deputy, compensation, counties of 35,000 to 40,000, 3902i.  
   Counties of 301,000 to 398,000, 3912e-15.  
   Towns of 4000 or more, 2956.  
 Elections,  
   Announcing results and posting returns, 3028.  
   Primary elections,  
     Duties respecting returns, etc., 3123.  
     Returns made to clerks, time, 3123.  
   Returns, announcing, posting, 3028.

**Fees,**

Naturopathic physicians' licenses, filing and recording, 4590d, § 4.  
 Game, fish and oyster commission's regulations relating to depletion of wild life in certain counties filed with, PC 978n-1, § 10.  
 Lubbock County Court at Law, clerk of, 1970-340, §§ 17, 22.  
 Marriage licenses,  
   Expiration, 4612a, § 10.  
   Premarital examination for syphilis, 4612a.  
 McLennan County, duties, misdemeanor causes in 74th district court, 199(19, 54, 74), § 9.  
 Notice of workmen's compensation suit, injuries to county employees, 8309c.

**COUNTY COURTS**

Insane persons, restoration proceedings, 5561b.  
 Jefferson county at law, 1970-111 to 1970-126.  
 Jurisdiction,  
   Appellate jurisdiction, Lubbock County Court at Law, 1970-340, § 2.

**COUNTY COURTS (Cont'd)**

Jurisdiction (Cont'd)  
 Blanco County, 1970-337.  
 Criminal jurisdiction,  
   Lubbock County Court at Law, 1970-340, §§ 2, 3.  
   McLennan County, 199(19, 54, 74), § 8.  
 Edwards county, 1970-296, 1970-300, 1970-300a.  
 Ellis County, 1970-338.  
 Eminent domain proceedings, Lubbock County Court at Law, 1970-340, § 2.  
 Johnson County, 1970-335.  
 Lubbock County Court, 1970-340, § 6.  
 Lubbock County Court at Law, 1970-340, §§ 2, 3, 6, 7, 16, 19.  
 Nueces county, concurrent jurisdiction, 105th district court, 199(105), § 1.  
 Nueces County at Law, 1970-339.  
 Probate jurisdiction, Willacy county court, 199(107), § 5a.  
 Willacy county, 199(107), § 5a.  
   Partial transfer, 107th district court, 199(107), § 5a.  
 Lubbock County Court at Law, 1970-340.  
 Nueces County at Law, 1970-339.  
 Oath, judge of Lubbock County Court at Law, 1970-340, § 13.  
 Practice and procedure, Lubbock County Court at Law, 1970-340, § 24.  
 Reporters and compensation,  
   Lubbock County Court at Law, 1970-340, § 23.  
   Nueces County at Law, 1970-339.  
 Salaries, Lubbock County Court at Law, 1970-340, § 23.  
 Seal, Lubbock County Court at Law, 1970-340, § 17.  
 Terms,  
   Jefferson County Court at Law, 1970-114.  
   Lubbock County Court at Law, 1970-340, § 8.  
 Transfer of proceedings,  
   Lubbock County Court at Law, 1970-340, § 2.  
   107th district court, transfer of cases to, 199(107), § 5a.  
 Willacy county, 199(107), § 5a.

**COUNTY FINANCES**

Bonds,  
   Validation, seawalls, 6839e.  
 Building and loan associations, investment of county funds in shares of, 881a-24.  
 County funds,  
   Investments,  
     Bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf Coast, 6795b-1, § 7b.  
     Building and loan association shares, 881a-24.  
 Federal savings and loan associations, investment of county funds in shares, 881a-24.  
 Time warrants, counties exceeding 300,000, 2368f.  
 Warrants,  
   Time warrants, counties exceeding 300,000, 2368f.

**COUNTY HOSPITALS**

Leases,  
   Counties of 5,000 to 10,390, 4494h.  
   Counties of 22,000 to 22,800, 4494m.  
   Counties of 69,080 to 69,100, 4494k.  
   Hearing, 4494l.  
 Sale,  
   Counties of 22,000 to 22,800, 4494m.  
   Counties of 69,080 to 69,100, 4494k.

**COUNTY JUDGES**

Child welfare agencies, approval of solicitors, 695c, § 8a.

- COUNTY JUDGES (Cont'd)**  
 Compensation, 5139 note.  
 Commissioners court to fix maximum and minimum, counties of 398,000 or more, 3912h.  
 Counties of 90,000 to 145,000, 3912e-16.  
 Counties of 225,000 or more with one county court at law, 1970-336.  
 Counties of 398,000 or more, 3912h.  
 County courts at law, counties of 398,000 or over, 3912h.  
 County criminal courts, counties of 398,000 or more, 3912h.  
 Juvenile board member, 5139(E).  
 Stenographer or clerk, counties of 27,150 to 27,059, 1934A-12.  
 County superintendents, performance of duties in counties of less than 28,000, 2688c.  
 Criminal cases, fee, paid by defendant on conviction, CCP 1052.  
 Deputies and assistants, counties of 301,000 to 398,000, 3912e-15.  
 Disqualification, judge of Lubbock County Court at Law, 1970-340, § 15.  
**Elections.**  
 Ad valorem tax, road and flood control purposes, 7048a.  
 Jefferson county court at law, 1970-115.  
 Lubbock County Court at Law, 1970-340, § 9.  
**Orders.**  
 Election to establish countywide school equalization district in counties of 27,000 to 30,000, 2740f-5.  
 Special judge of Lubbock County Court at Law, 1970-340, § 14.  
**Fees.**  
 Criminal trials, CCP 1052.  
 Jefferson county court at law, 1970-122, 1970-124.  
 Lubbock County Court at Law, 1970-340, § 22.  
 Herbicide dealers, bond, approval, 135b-2, § 4.  
 Insane persons,  
 Restoration proceedings, state hospital inmates, 5561b.  
 Juvenile board, member and chairman of, 5139 (E).  
 Lubbock County Court, 1970-340, § 6.  
 Lubbock County Court at Law, 1970-340, §§ 7, 9, 12-16, 18, 20-24, 26.  
 Mosquito control districts in certain counties, appointment of member of advisory commission, 4477-2.  
 Park commissioners in counties on Gulf, 6079c.  
 Permits, oversize or overweight commodities; transportation, PC 827a.  
 Premarital examination for syphilis, waiver, 4612a.  
**Qualifications.**  
 Jefferson County Court at Law, 1970-115.  
 Lubbock County Court at Law, 1970-340, § 9.  
 Removal, Lubbock County Court at Law, 1970-340, § 12.  
**Salaries.**  
 Jefferson County Court at Law, 1970-122.  
 Lubbock County Court at Law, 1970-340, § 21.  
 Special judge of Lubbock County Court at Law, 1970-340, §§ 14, 15.  
 Schools and school districts, validation of acts of judge relating to, 2815g-39; 2815g-43, § 1.  
 Solicitors, child welfare agencies, approval, 695c, § 8a.  
 Special judges Lubbock County Court at Law, 1970-340, §§ 14, 15.  
**Stenographers.**  
 Counties of 27,059 to 27,150, 1934A-12.  
 Counties of 47,000 to 51,000, 1934a-13.  
 Refugio county, 1934a-14.  
 Term, Jefferson county court at law, 1970-115.
- COUNTY JUVENILE BOARDS**  
 Assistant Probation Officers approved by, 5142a, § 1.  
 Chief Probation Officer, appointment by Board in certain counties, 5142a, § 1.  
 Compensation of members, 5139.  
 Composition of Board in certain counties, 5139.  
 Report of county auditor to, 5142c, § 6.
- COUNTY LAW ENFORCEMENT OFFICERS**  
 Compensated on salary basis in counties of less than 20,000, Const. art. XVI, § 61.
- COUNTY LIBRARIES**  
 Law libraries,  
 Costs,  
 Taxed in action to maintain, 1702b-3, 1702g.  
 Counties of 27,000 located in two judicial districts composed of four counties, 1702f.  
 Counties of 30,000 to 250,000, 1702e.
- COUNTY OFFICE BUILDINGS**  
 Commissioners courts, authority to acquire and construct, counties of 90,000 to 225,000, 2372j.
- COUNTY OFFICERS**  
 Compensation,  
 Employees in counties over 355,000, 3921e-4b.  
 Increase, power of commissioners court, 3912g.  
 Deputies and assistants,  
 Compensation,  
 Counties over 355,000, 3912e-4b.  
 Increase, powers of commissioners courts, 3912g.  
 Juvenile Officers, this index.  
 Legal notices and financial statements, failure to publish, 6252-2.
- COUNTY SUPERINTENDENT OF SCHOOLS**  
 Schools and School Districts, this index.
- COUNTY TREASURER**  
 Compensation,  
 Commissioners court to fix maximum and minimum, counties of 398,000 or over, 3912h.  
 County law library funds, 1702e.  
 Employees, deputies and assistants, counties of 301,000 to 398,000, 3912e-15.
- COURT COMMISSIONERS**  
 Appellate Courts, power of Legislature to provide for retirement, compensation and reassignment, Const. art. V, § 1-a.
- COURT OF CRIMINAL APPEALS**  
 Clerks, salaries, supplementary salaries from receipts, 6824 note.  
**Judges.**  
 Retirement, 6228b.  
 Compensation and reassignment, Legislative power to provide for, Const. art. V, § 1-a.  
 Salaries, 6819a-6.
- COURT OF DOMESTIC RELATIONS**  
 Potter County, creation, jurisdiction, etc., 2338-3.
- COURTS**  
 Counties of 10,380 to 10,390, 1934a-14.
- COURTS OF CIVIL APPEALS**  
 Certification, mandamus to compel, (RCP) Rule 475.  
 Commissioners, legislative power to provide for retirement, compensation and reassignment, Const. art. V, § 1-a.  
 Deposit for costs, (RCP) Rule 388-A.  
 Writ of error, (RCP) Rule 485.  
**Judges.**  
 Retirement, 6228b.  
 Compensation and reassignment, legislative power to provide for, Const. art. V, § 1-a.



**COURTS OF CIVIL APPEALS (Cont'd)****Judges (Cont'd)**

Salaries, 6819a-6.

Retired Judges, legislative power to provide for, Const. art. V, § 1-a.

Opinion, attorneys, delivery to, (RCP) Rule 456.

Original proceeding, motion for leave to file, (RCP) Rule 383.

Rehearing, motion, (RCP) Rule 515.

**CREDIT INSURANCE**

Appeal, 4764c, § 12.

Commissions, 4764c, § 6.

Licenses and license taxes, 4764c, § 2.

Cancellation of license, 4764c, § 11.

Loans, conditions, 4764c, § 4.

Offenses and penalties, 4764c, § 13.

Policies,

Plurality, prohibition, 4764c, § 5.

Solicitation, regulations, 4764c, § 7.

Rates,

Change, 4764c, §§ 8, 10.

Schedule, 4764c, § 2.

Rules and regulations, 4764c, § 9.

**CREDIT, LIFE, HEALTH AND ACCIDENT INSURANCE**

Definitions, 4764c, § 1.

**CREDITABLE SERVICE**

Defined, 6228a, § 1.

**CRIMES AND OFFENSES**

Cigarette tax stamps, possession of stamps of old denomination, PC 131c-1, § 26a.

Fondling or handling sexual parts of child, PC 535d.

Lewd and lascivious conduct with child, inviting or enticing child for purpose of, PC 535b.

Motor vehicles, operation without payment of motor vehicle sales tax, 7047k-1, § 7.

Stamps on intoxicating liquors, failure to affix, PC 666-21½.

**CRIMINAL DISTRICT ATTORNEYS**

Assistants,

Compensation, counties of 350,000, 3912e-14.  
Jefferson county, CCP 52-160b.

Compensation,

Commissioners court to fix maximum and minimum, counties of 398,000 or over, 3912h.

Counties of,

90,000 to 145,000, 3912e-16.

Jefferson county, election, duties, etc., CCP 52-160b.

Misdemeanor causes, 74th district court, fees and costs, 199(19, 54, 74), § 10.

Stenographers,

Jefferson county, CCP 52-160b.

Workmen's compensation, representation of county in claim for workmen's compensation for injury to county employees, 8309c.

**CRIMINAL DISTRICT COURTS**

Jefferson county, CCP 52-160b.

Judges,

Retirement, 6228b.

Compensation and reassignment, Legislative power to provide for, Const. art. V, § 1-a.

Salaries,

Additional compensation as juvenile board members, 5142b, § 15.

Counties having eight or more district courts, 6819a-5.

Retired Judges, legislative power to provide for, Const. art. V, § 1-a.

Serving as Juvenile Board member, 5139.

**CURRENT INTEREST**

Defined, 6228a, § 1.

**DAINGERFIELD STATE PARK**

Oil and gas leases, 6077o.

**DALLAM COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**DAMAGES**

Condemnation proceedings, flood control, 1581e.

**DAMS**

Huntsville State Park, 6077p.

**DAVIS MOUNTAINS STATE PARK**

Oil and gas leases, 6077o.

**DAYTIME**

Definition, motor vehicle speed limit on beach, PC 827f.

**DEAF AND DUMB ASYLUMS**

Austin, name changed to Texas School for the Deaf, 3205a.

**DEAF SMITH COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**DEATH**

Governor before taking office, person who shall act as Governor, Const. art. IV, § 3a.

Retirement, Disability and Death Compensation Fund, generally, this index.

**DEFENDANT**

Trade-name, doing business under, denial, verification, (RCP) Rule 93.

**DEFINITION**

Market value of oil, 7057a, § 2A.

**DELINQUENT CHILDREN**

Commitment,

Youth Development Commission, 5143c.

Contributing to delinquency, parents, guardians, etc., PC 534a.

Detention homes, commissioners court authorized to construct or acquire, 2370a.

Encouraging delinquency, parents, guardians, etc., PC 534a.

Religious training, 5143c, § 25.

Youth Development Council, this index.

**DELINQUENT TAXES**

Collection,

Suits by commissioners courts, counties bordering Mexican boundary, 7345e.

Commissioners court,

Suits for collection, certain counties bordering boundary with Mexico, 7345e.

**DENTISTS AND DENTISTRY**

Basic Science Act, exemption, 4590c, § 16; PC 742b.

Board of examiners,

Accomplices, agents, etc., not to be considered as, PC 754b.

Testimony, corroboration unnecessary, PC 754b.

Naturopathic Physician Practice Act, exceptions, 4590d, §§ 13, 18.

**DEPARTMENT**

Defined, 6228a, § 1.

**DEPARTMENT OF PUBLIC SAFETY**

Buildings for, 4413(29a).

Liquified petroleum gas, co-operation with Railroad Commission in enforcement of law, 6053, § 6.

**DEPARTMENT OF PUBLIC WELFARE**

Advisory board, 695c, § 8a.

Child welfare,

Child-caring and child-placing agencies, supervision, 695c, § 8a.

Solicitation of funds, licensing, 695c, § 8a.

State institutions exempt, 695c, § 8a.

Executive director, member, Youth Development Council, 5143c, § 4.

Investigations, 695c, § 8a.

Rules and regulations,

Licenses, 695c, § 8a.

**DEPENDENT CHILDREN**

Contributing to dependency, PC 534a.  
Encouraging dependency, parents, guardians, etc., PC 534a.

**DEPLETION**

Defined, PC 978n-1, § 4.

**DEPOSITIONS**

Adverse party, (RCP) Rule 188.  
Ex parte, limitation, (RCP) Rule 188.  
Witnesses, county of witness' residence, (RCP) Rule 202.

**DEPOSITORIES****Bonds,**

State University for Negroes, 2643e, § 2.  
Cities, towns and villages, withdrawal of funds from, discharge from liability, 342-707a.  
Counties,

Commissioners' court, approval of person to accept deposits, depositories not located at county seat, 2553.

Withdrawing funds, discharge from liability, 342-707a.

Public money, withdrawal, discharge from liability, 342-707a.

**School funds,**

Withdrawal, discharge from liability, 342-707a.

**State depositories,**

Withdrawal of funds, discharge from liability, 342-707a.

State University for Negroes, 2643e, § 2.

**DEPOSITS IN BANKS**

Withdrawals, discharge from liability for public funds, 342-707a.

**DESERTION****Wife or children,**

District clerk, receipt of support money, 5142a.

Juvenile officer to keep record and investigate, 5142c, § 3.

Payment and disbursement of money paid in desertion cases, 5142c, § 4.

**DEVICES**

Intoxicating liquor, sale of forfeited devices, PC 666-30.

**DIRECTORS**

Telephone cooperative corporations, 1528c, §§ 6, 10, 12, 14-17, 19-21, 23, 27.

**DISABILITY COMPENSATION**

Retirement, Disability and Death Compensation Fund, generally, this index.

**DISABILITY RETIREMENT**

Defined, 6228a, § 1.

**DISABILITY RETIREMENT ALLOWANCE**

Defined, 6228a, § 1.

**DISMISSAL AND NONSUIT**

Deposit for costs, failure to make, Court of Civil Appeals, (RCP) Rule 388-A.  
Supreme Court, (RCP) Rule 485.

Rehearing, motion for, copies, failure to supply, (RCP) Rule 515.

**DISSOLUTION**

Telephone cooperative corporations, 1528c, §§ 12, 21.

**DISTILLED SPIRITS**

Tax, PC 666-17.  
Testing and approval of samples and labels, shipment into state, PC 666-56.  
Transportation, PC 666-17.

**DISTRICT ATTORNEYS**

Abolished, 7th judicial district, 326k-13.

**Assistants,**

Counties of 39,000 to 50,000, appointment, 326k-12.

Counties of 301,000 to 398,000, 3912e-15.

**DISTRICT ATTORNEYS (Cont'd)**

Basic Science Act, enforcement, 4590c, § 15.

Chiropractic act, enforcement, 4512b, § 16.

Deputies, counties of 301,000 to 398,000, 3912e-15.

Employees, counties of 301,000 to 398,000, 3912e-15.

Financial statements, action against officers failing to publish, 6252-2.

Investigators, appointment,

Counties of 39,000 to 50,000, 326k-12.

Counties of 325,000 to 500,000, 3912e, § 19(f-1).

Juvenile officer to report to, 5142c, § 3.

Legal notices, action against officers failing to publish, 6252-2.

Naturopathic Practice Act,

Enforcement, 4590d, § 10.

Injunction, 4590d, § 15.

Real estate dealers, injunction against dealers violating statute, 6573a, § 21.

Salaries, 3886f.

Commissioners court to fix maximum and minimum, counties of 398,000 or over, 3912h.

66th judicial district, 322c.

Tuberculosis nurses act, assistance in enforcing, 4528b, § 2.

**DISTRICT CLERKS****Deputies or assistants,**

Counties of 301,000 to 398,000, 3912e-15.

Desertion cases, receiving support money, 5142a.

District courts of Dallas County, 199(134), § 5.

Dockets, Dallas County, 199(134), §§ 5, 6.

Intoxicating liquors, certified copy of conviction furnished Liquor Control Board, PC 666-41a.

105th district court, 199(105), § 5.

**Salaries,**

Commissioners court to fix maximum and minimum, counties of 398,000 or over, 3912h.

Counties of,

90,000 to 145,000, 3912e-16.

Seasonal employees, authority of clerk to employ, compensation, counties of 30,400 to 31,150, 3903e.

Workmen's compensation, notice of injuries to county employees, §309c.

**DISTRICT COURTS****Assignment clerks,**

Appointments by judge, 37th, 45th, 57th and 73rd district courts, 2093e.

Certain districts, 2093e.

Salary, recommendation of judge, 2093-c.

Case numbers, Dallas County, 199(134), § 7.

**Contempt,**

Witnesses, legislative council, 5429b, § 5.

**County law library,**

Counties between 29,500 and 30,000, having no Court of Civil Appeals, 1702g.

County seat, proceedings conducted at, exception, Const. Art. 5, § 7.

Dockets, Dallas County, 199(134), §§ 5, 6.

Interpreters in counties bordering on International Boundaries, 3737d.

**Judges,**

Appointments by, bailiff in certain counties, CCP 367g.

Assignment clerks, generally, ante.

Bailiffs in certain counties appointed by, CCP 367g.

Compensation, juvenile board member, 5139 (E).

County law library fund, administration, 1702g.

Employees, deputies and assistants, compensation, counties of 301,000 to 398,000, 3912e-15.

Grand jury, basic science act, direction to inquire into violations, 4590c, § 15.

**DISTRICT COURTS (Cont'd)****Judges (Cont'd)**

Juvenile Board member in certain counties, 5139.

Juvenile boards, member of, 5139(E).

Juvenile officers appointed by, 5142c, § 1.

105th district, 199(105), §§ 2, 3.

134th district court, 199(134), § 4.

Premarital examination for syphilis, waiver, 4612a.

Proceedings, county seat, exception, Const. Art. 5, § 7.

Retirement, 6228b.

Compensation and reassignment, legislative power to provide for, Const. art. V, § 1-a.

Salaries, 5139 note, 6819a-6.

Additional compensation as juvenile board members, 5142b, § 15.

Additional salary for services concerning juvenile officers not counted as fees, 5142c, § 8.

Additional services relating to juveniles, 5142c, § 2.

Counties having eight or more district courts, 6819a-5.

Members of Juvenile Board in certain counties, 5139.

Retired Judges, legislative power to provide for, Const. art. V, § 1-a.

Transfer of cases, Dallas County, 199(134), § 8.

Vacations in certain districts, 199(118).

**Jurisdiction,**

Johnson County, 1970-335.

Misdemeanors, 74th district, McLennan County, 199(19, 54, 74), § 8.

118th district, 199(118).

134th judicial district, 199(134), § 2.

Transfer of, Willacy county court to district court, 199(107), § 5a.

McLennan County, 74th district, trial of misdemeanor causes, 199(19, 54, 74), § 12.

105th judicial district,

Concurrent jurisdiction,

Nueces county court, 199(105), § 1.

117th judicial district in Nueces county, 119(105), § 1.

Counties composing, 199(105), § 1.

118th judicial district, counties composing and terms of court, 199(118).

128th judicial district, temporary court made permanent, 199(128).

134th judicial district, 199(134).

**Reporters,**

Salaries, 2326d-1, 2326i.

Seal, 199(105), § 6.

70th district, counties composing and term of court, 199(70).

Terms of court,

County seat, Const. Art. 5, § 7.

77th district, 199(77).

105th district, 199(105), § 4.

134th judicial district, 199(134), § 3.

Transfer of certain civil jurisdiction of Willacy county court to 107th district court, 199(107), § 5a.

Transfer of causes,

Dallas County, 199(134), § 8.

28th, 94th, 115th to 105th judicial districts, 119(105), § 2.

**DISTRICT OFFICERS**

Assistants, compensation, 3912e-4b.

Increase, powers of commissioners courts, 3912g.

Compensation,

Deputies, assistants and employees, 3912e-4b.

Increase, powers of commissioners court, 3912g.

**DISTRICT OFFICERS (Cont'd)**

Deputies, compensation, 3912e-4b.

Increase, powers of commissioners courts, 3912g.

**DISTRICTS**

Defined, 8280-2, § 1.

Telephone cooperative corporations, districts served by, 1528c, § 15.

Underground water conservation districts, 7880-3c.

**DIVORCE**

Juvenile Officer to examine merits of claim for, 5142c, § 7.

Support order, children, contempt, proceedings, (RCP) Rule 308-A.

**DOMESTIC RELATIONS COURT OF POTTER COUNTY**

Creation, jurisdiction, etc., 2338-3.

**DONLEY COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**DORMITORIES**

Junior colleges and universities, 2815k.

Bonds, 2815r.

Self-liquidating, 2815r.

**DRAINAGE**

Flood control, 1581e.

**DRAINAGE DISTRICTS**

Commissioners,

Joinder with governmental agencies, etc., in constructing and maintaining drainage improvements, etc., counties of 27,030 to 27,070, 8161d.

Salaries,

Counties of 90,000 to 150,000, 8120a.

Commissioners courts, commissioners,

Compensation and allowance for automobile, expenses, etc., 8161d.

Salaries, counties of 90,000 to 150,000, 8120a.

Co-operation, county flood control projects, 1581e.

Fort Bend County, creation, etc., foll. 8197f.

Joinder with governmental agency, etc., construction and maintenance of drainage improvements, etc., counties of 27,030 to 27,070, 8161d.

**Taxation,**

Improvements, equipment, etc., jointly constructed and maintained, 8161d.

Validation, Brazoria Drainage District No. 2, organization and acts of, 8161d.

**EAST TEXAS STATE TUBERCULOSIS SANATORIUM**

Appropriations for State Tuberculosis Sanatorium for Negroes available for, 3254a-1, § 15.

Equipment, supplies and property, transfer from State Tuberculosis Sanatorium for Negroes, 3254a-1, § 14.

Name of Eleemosynary Institutions changed, 3174a.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**EASTLAND COUNTY WATER SUPPLY DISTRICT**

Creation, etc., foll. 8197f.

**EDUCATION**

Foundation School Program, generally, this index.

State board, 2654-2, 2654-3.

**EDUCATIONAL INSTITUTIONS**

Buildings, exception from law authorizing chief of division of design of State Board of Control to design state buildings, 681.

**EDUCATIONAL INSTITUTIONS (Cont'd)**

Higher learning, buildings, designing excepted from authority of State Board of Control designing division, 681.

**EDWARDS COUNTY**

County court, jurisdiction, 1970—296, 1970—300, 1970—300a.

**ELECTIONS**

Absentee voters, ballots, detachable stubs, 2956a.

**Candidates,**

Loyalty affidavits, 2978a.

**Cities, towns and villages,**

Aldermanic form of government, change from commission form, 1154.

Assumption of bonded indebtedness of irrigation, water improvement or water control improvement districts annexed to city, 8280—2, § 4.

Referendum, contracts for water supply with water, etc., districts, 1109e.

Communists, exclusion, 2978b.

**Conduct,**

Signature, voter, numbered stub, 2980, 3109.

Stub boxes, 3012.

Contributions, State Board of Education, 2654—2, § 10.

Corrupt practices, State Board of Education, 2654—2, § 10.

Fraud, precaution against, 3122.

**Judges,**

Ballot boxes, delivery to county clerk, 3028.  
Report of returns, delivery to county clerk, 3028.

Junior college districts, regents, 2815o.

Loyalty affidavits, 2978a.

Mosquito control districts in certain counties, 4477—2.

Stub box, 3012.

Time warrants, issuance by counties exceeding 300,000, 2368f.

Validation, Port of Beaumont Navigation District, 8198 note.

**Voters,****Qualifications,**

Issuance of time warrants by counties exceeding 300,000, 2368f.

Signature on stub, 2980, 3109, 3122.

Voting machines, exception, numbered stubs on ballots, 2997d.

**ELECTRIC COOPERATIVE CORPORATIONS**

Power lines, maintenance along roads and highways, 1436a.

**ELECTRIC LIGHT AND POWER COMPANIES**

Cities, towns and villages,

Hydro-electric generating facilities, acquisition, 1118q.

Gross receipts taxes, 7060½.

Occupation taxes, 7060½.

Rights in roads, streets, etc., 1436a.

Roads and highways, maintenance of power lines along, 1436a.

**ELECTRIC LINES**

Construction, standards, 1436a.

Highways and roads, maintenance along, 1436a.

**ELECTRIC MUSIC MACHINES**

Corporations, creation for purpose of owning, selling or hiring, 1302, par. 108.

**ELEEMOSYNARY INSTITUTIONS**

Name changed to state hospitals and special schools, 3174a.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

Veterans County Service Officer to have access to records, 5798a—2.

**ELIGIBLE CITY**

Defined, 1118n—4, § 1.

**ELLIS COUNTY**

County court, jurisdiction, 1970—338.

**EMINENT DOMAIN**

Appellate jurisdiction of 107th district court, 199(107), § 5a.

Flood control, acquisition of land by United States for, 5248i.

Jurisdiction, Lubbock County Court at Law, 1970—340, § 2.

Lamar State College of Technology, 2637f.

Navigation districts, 8263h.

District containing municipality of 300,000, 8263k.

State University for Negroes, power of directors, etc., 2643b, § 5.

Telephone cooperative corporations, power to exercise, 1528c, § 4.

United States, acquisition of land for flood control, 5248i.

**EMPLOYEES**

Defined, 6228a, § 1.

Workmen's Compensation Law for county employees, 8309c.

**EMPLOYEES' RETIREMENT SYSTEM OF TEXAS**

Absence from service, 6228a, § 3.

Accumulated contributions,

Defined, 6228a, § 1.

Forfeiture, 6228a, § 5.

Return of, 6228a, § 5.

Actuary, 6228a, § 6.

Administration, 6228a, § 6.

**Age,**

Employee ceasing to be participating member, 6228a, § 3.

Retirement, 6228a, § 5.

Allowance on disability retirement or service retirement, 6228a, § 5.

**Annuities,**

Membership annuity, 6228a, § 5.

Defined, 6228a, § 1.

Reserve, 6228a, § 5.

Defined, 6228a, § 1.

Prior service annuities, 6228a, § 5.

Defined, 6228a, § 1.

**Armed forces,**

Computation of prior service compensation affected by time spent in, 6228a, § 5.

Credit for service in, 6228a, § 5.

Time spent in armed forces not construed as absence from service, 6228a, § 3.

Attorney General as legal advisor for state board of trustees, 6228a, § 6.

Average prior service compensation, computation, 6228a, § 5.

Beneficiaries retired on account of disability, 6228a, § 5.

Benefits, 6228a, § 5.

Chairman of state board of trustees, 6228a, § 6.

Contributions, return of accumulated contributions, 6228a, § 5.

Creditable service, 6228a, § 4.

Defined, 6228a, § 1.

Date of establishment, 6228a, § 2.

Death of member before retirement, 6228a, § 5.

Definitions, 6228a, § 1.

Disability retirement, defined, 6228a, § 1.

Disability retirement allowance, 6228a, § 5.

Defined, 6228a, § 1.

Eligibility for membership, 6228a, § 6.

Establishment, 6228a, § 2.

Executive secretary state board of trustees, 6228a, § 6.

Fiscal year, 6228a, § 1.

Funds, 6228a, §§ 6-10.

Management, 6228a, § 2.

Medical board, 6228a, § 6.

Members, 6228a, §§ 3, 6.

Membership service defined, 6228a, § 1.

Name, 6228a, § 2.

**EMPLOYEES' RETIREMENT SYSTEM OF TEXAS (Cont'd)**

- Notice of election not to become member, 6228a, § 3.
- Optional,
  - Allowances for service retirement, 6228a, § 5.
  - Retirement, 6228a, § 5.
  - Permanent retirement fund, 6228a, §§ 5, 8.
  - Person eligible to become member, 6228a, § 3.
  - Physical examination of member applying for disability retirement benefits, 6228a, § 5.
  - Prior service annuity, 6228a, § 5.
    - Defined, 6228a, § 1.
  - Prior service certificate, 6228a, § 4.
  - Prior service credits, 6228a, § 3.
    - Interchange as between Teachers Retirement System and Employees Retirement System, 6228c.
  - Records, proceedings of state board of trustees, 6228a, § 6.
  - Restoration to membership of disabled beneficiary, 6228a, § 5.
  - Retirement, defined, 6228a, § 1.
  - Return of accumulated contributions, 6228a, § 5.
  - Rules and regulations, 6228a, § 6.
  - Service retirement, 6228a, § 5.
    - Allowance defined, 6228a, § 1.
    - Benefits, 6228a, § 5.
  - State board of trustees, 6228a, §§ 6, 8, 11.
    - Adjustment and verification of claims for prior service, 6228a, § 4.
    - Employees, 6228a, § 6.
  - Termination of membership, 6228a, §§ 3, 5.
  - Withdrawal from service, 6228a, §§ 3, 5.
  - Years of service before member entitled to retirement allowance; 6228a, § 4.

**EMPLOYERS**

- Defined, 6228a, § 1.

**EMPLOYMENT AGENTS**

- Bond, 5221a-6, §§ 4, 5.
- Definitions, 5221a-6, § 1.
- Enforcement of act, 5221a-6, § 14.
- Exceptions, 5221a-6, § 2.
- Fees, 5221a-6, § 8.
- Injunction, 5221a-6, § 15.
- Labor Agents, generally, this index.
- Licenses,
  - Application, 5221a-6, § 3.
  - Cancellation, 5221a-6, § 7.
  - Display, 5221a-6, § 12.
  - Doing business without, 5221a-6, § 13.
  - Evidence, 5221a-6, § 16.
  - Issuance, 5221a-6, § 3.
- Offenses and penalties, 5221a-6, §§ 10-13.
- Receipts, 5221a-6, § 9.
- Record, 5221-6, § 6.

**EMPLOYMENT AND LABOR AGENTS**

- Labor Agents, generally, this index.

**EMPLOYMENT COMMISSION**

- Chairman, member, Youth Development Council, 5143c, § 4.

**ENGINEERS**

- Mosquito control districts in certain counties, 4477-2.

**EPILEPTICS**

- See Abilene State Hospital, generally, this index.

**ESCAPES**

- Definition, PC 353b.
- Firearms or weapons, punishment for use in escape, PC 353b.
- Forfeiture of commutation of time, 6184f.
- Officer defined, PC 353b.
- Prison and prisoner defined, PC 353b.
- Punishment, PC 353b.
- Voluntary return within 24 hours, punishment, PC 353b.

**ESCHEAT**

- Corporate property, distributive share, unknown stockholder, dissolution, 1395a.
- Unknown stockholder, distributive share on dissolution, 1395a.

**ESTATES OF DECEDENTS**

- Validation, citations and notices, 2286a.

**EVIDENCE**

- Admission of facts, (RCP) Rule 169.
- Conclusive, abandonment of river bed, 7467b.
- Documents, genuineness, admission of, (RCP) Rule 169.
- License,
  - Application, private employment agent, 5221a-6, § 16.
  - Labor agent's license, 5221a-5, § 8.
- Lubbock County Court at Law, rules of evidence, 1970-340, § 24.
- Prima facie evidence,
  - Action on account, supporting affidavit, (RCP) Rule 185.
  - Naturopathic physicians, license, absence of record, 4590d, § 4.

**EXAMINATIONS**

- Building and loan associations, foreign, 881a-63.
- Firemen's and Policemen's Civil Service, this index.
- Tuberculosis nurses, 4528b, §§ 4-6.

**EXCHANGE**

- Community property between spouses, Const. art. XVI, § 15.

**EXCISE TAXES**

- Telephone cooperative corporations, exemption from, 1528c, § 29.

**EXECUTIVE COMMITTEE**

- Telephone cooperative corporations, 1528c, § 17.

**EXECUTORS AND ADMINISTRATORS**

- Oil and gas pooling agreements, 6008b.

**EXEMPTIONS**

- Game, big game license requirements, PC 895a.
- Herbicides, this index.
- Tuition of students in colleges, high school graduates of state orphanages, 2654F.

**EXHIBITION BUILDINGS**

- Commissioners court, authority to purchase, build or construct for horticultural, agricultural, etc., products, 2372d-2.

**EXPENSES AND EXPENDITURES**

- Chief Probation Officers and Assistants in counties of 350,000, 5142a, § 1.
- Juvenile officers in certain counties, 5142c, § 1.
- Legislative Redistricting Board, Const. art. III, § 28.

**FAITH HEALERS**

- Ministers of the Gospel, generally, this index.

**FALSE CERTIFICATES**

- Basic science, 4590c, § 12; PC 744a, 744b.

**FALSE PERSONATION**

- Child welfare agency representatives, 695c, § 8a.

**FALSE SWEARING**

- Big game licenses, PC 895a.
- Foundation school program, furnishing incorrect information to central education agency, 2922-21, § 2.
- Game and fish, false swearing in affidavit for violating regulations, PC 978n-1, § 13.
- License to fish in fresh waters, violation of by false swearing, 4032b, § 9.

**FANNIN STATE PARK**

- Oil and gas leases, 6077o.

**FARM-TO-MARKET ROAD FUNDS**

- Transfer of funds from clearance fund to, 7083a.

**FARM-TO-MARKET ROADS**

County ad valorem tax used for construction and maintenance, Const. art. VIII, § 1-a.

**FARMERS**

Labor Agency Law, exception, 5221a-5, § 2.  
Private Employment Agency Law, exception, 5221a-6, § 2.

**FEDERAL AGENCY**

Defined, 1528c, § 2.

**FEDERAL AID**

Bridges, causeways and tunnels, Gulf Coast counties of 50,000 or more, 6795b-1, § 7a.  
Telephone cooperative corporations, mortgage to secure, 1528c, § 23.

**FEDERAL SAVINGS & LOAN ASSOCIATION**

Closing place of business authorized, 881b.  
Directors, authority to close place of business, 881b.

Investment in shares or share accounts,

Guardians, 4180.  
Sinking funds, 836.

Municipalities, school districts, etc., sinking funds invested in shares, 836.

**FEEBLE MINDED**

Mexia State School and Home, generally, this index.

**FEES**

Building and loan associations, foreign, filing fee in lieu of examination fee, 881a-63.

Clerk of court,  
Civil Appeals, 3924.

Jury, (RCP) Rule 216.

Liquified petroleum gas, licenses, 6053, § 10.

**FELONIES**

Basic science certificates, fraudulent, 4590c, § 12.  
Bribery, basic science board of examiners, 4590c, § 13; PC 160a, 160b.

Commercial fisherman, false statement in application for license, PC 934b-2.

False certificate, basic science, PC 741a.

Weapons, carrying, after conviction of felony involving act of violence with firearms, PC 489c.

**FIDELITY, GUARANTY AND SURETY COMPANIES**

Foreign companies, unauthorized to do business, Agents, licensing bond and tax, 5068e, § 2.  
Policies,

Actions on, 5068e, §§ 4-7.  
Regulation of placing, 5068e, § 1.

**FIDUCIARIES**

Investments, bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf Coast, 6795b-1, § 7b.

**FINANCIAL INSTITUTIONS**

Intoxicating liquors, warehouse receipts, sale on death of permittee, or licensee, etc., PC 666-13.

**FINANCIAL STATEMENT**

Public officers, failure to publish, loss of salary, etc., 6252-2.

**FINES AND PENALTIES**

Antifreeze regulations, violating, 165-6, § 9.  
Assault and battery, throwing bottles, etc., athletic contests, etc., PC 1146a.

Child welfare agency, unauthorized solicitation, 695c, § 8a.

Chiropractic act, violation of, 4512b, § 19.

Commercial Fishing Law violations, PC 934b-2.  
Credit Insurance Regulatory Act, violations, 4764c, § 13.

Escape, assisting, Youth Development Council, 5143c, § 37.

False personation, child welfare agency representative, 695c, § 8a.

**FINES AND PENALTIES (Cont'd)**

Foundation school program, violation of, 2922-21, § 2.

Healing art license, obtaining without basic science certificate, 4590c, § 14.

Herbicides, rules and regulations, violation, 135b-2, § 10.

Horse meat, sale for human consumption, PC 719e.

Inclosed lands, unlawful hunting and fishing on, PC 1377.

Labor Agency Law, violation, 5221a-5, § 13.

Lynching, PC 1260a.

Motor boats, operating while intoxicated, misdemeanor, PC 1333A.

Premarital Examination Law, violation of, 4612a, § 13.

Public school fraternities, sororities or secret societies, joining or soliciting membership, PC 301d.

Standard Gas Measurement Law, violations of act, 6066b, § 5.

Unlawful practice, healing art, PC 742c.

Vegetable Plant Certification Act, 118e, § 12.

**FIRE ENGINES**

Bonds, validation, 835i.

**FIRE ESCAPES**

Exits for school fire escape, 3959.

Exterior type, 3959.

Fire proof fire escapes for school buildings, 3959.

Guard rails on school building fire escapes, 3959.

Interior type, 3959.

Number, 3959.

Specification for school fire escapes, 3959.

State fire marshal to enforce act relating to school building fire escapes, 3959a.

Story, defined, 3959.

Type, 3959.

Construction of buildings, 3959.

**FIRE INSURANCE**

Foreign companies,

Reinsurance, 4932.

Unauthorized to do business,

Agent, licensing bond and tax, 5068e, § 2.

Policies,

Actions on, 5068e, §§ 4-7.

Regulation of placing, 5068e, § 1.

Policies, liquidated demands, incorporation of statutory provision, 4929a.

**FIRE PROOF**

Fire escapes for school buildings, 3959.

**FIREARMS**

Carrying, certain felons, PC 489c.

Definition, PC 489c.

Escape from prison, punishment for use of firearms or weapons, PC 353b.

**FIREMEN**

Salary,

Certain cities, PC 1583-2.

**FIREMEN'S AND POLICEMEN'S CIVIL SERVICE**

Appointment,

Original, 1269m, § 9.

Rejection of certified eligible persons, 1269m, § 14.

Chiefs or department heads,

Appointment, 1269m, § 8.

Eligibility, 1269m, § 14.

Convention, attendance authorized, 1269m, § 22.

Eligibility lists,

Filling vacancies, 1269m, § 8.

Examinations,

Appointment, original, 1269m, § 9.

Frequency, 1269m, § 14.

Physical, 1269m, § 9.

Subject matter, 1269m, § 9.

**FIREMEN'S AND POLICEMEN'S CIVIL SERVICE (Cont'd)**

- Points,
  - Seniority, 1269m, § 14.
  - Veterans', 1269m, § 9.
- Political contributions, 1269m, § 22.
- Promotion, 1269m, §§ 8, 14.
- Purposes, 1269m, § 16a.
- Salary, temporary appointment, 1269m, § 8.
- School, fire or police, attendance authorized, 1269m, § 22.
- Seniority, 1269m, § 14.
- Suspensions or dismissals,
  - Hearing, 1269m, § 16a.
- Temporary appointment, 1269m, § 8.
- Veterans' preference, 1269m, § 9.

**FIREMEN'S AND POLICEMEN'S CIVIL SERVICE COMMISSION**

- Depositions, power to take, 1269m, § 5a.
- Hearings,
  - Evidence, 1269m, § 16a.
  - Policy, 1269m, § 16a.
- Investigation,
  - Enforcement of act, 1269m, § 5a.
- Oath, administration of, 1269m, § 5a.
- Salary, classification, 1269m, § 8.

**FISCAL YEAR**

- Employees' Retirement System of Texas, 6228a, § 1.

**FISH**

- Incorporation for purpose of buying, selling, processing, etc., 1302, § 39a.

**FISH MARKETS**

- Cities, Towns and Villages, this index.

**FLOOD CONTROL**

- Ad valorem tax, Const. art. VIII, § 1a; 7048a.
  - Election, 7048a, §§ 7-9.
- Bonds, 7048a, § 10.
- Commissioner's Courts, this index.
- County ad valorem tax used for construction and maintenance, Const. art. VIII, § 1-a.
- Eminent domain, counties, 1581e.
- Projects, co-operation between agencies, 1581e.
- United States, consent to acquisition by United States of property in Texas for purpose of flood control, 5248i.

**FLOOD CONTROL DISTRICTS**

- Dallas County Flood Control District,
  - Ad valorem tax donation, foll. 8197f note.
- Harris County, foll. 8197f note.
  - Retirement system, foll. 8197f note.

**FOOD AND DRUGS**

- Horse meat,
  - Selling for human consumption, PC 719e.
  - Transportation, PC 719e, § 4.

**FOOTBALL**

- Throwing bottles, cushions, etc., misdemeanor, penalty, PC 1146a.

**FOREIGN CORPORATIONS**

- Casualty companies, this index.
- Inland Insurance, this index.
- Marine Insurance Companies, this index.
- Permits, forfeiture, suit by Attorney General, 7095.
- Telephone cooperative corporations, 1528c, § 31.
  - Record of mortgages, 1528c, § 25.

**FORGERY**

- Certificates, basic science, 4590c, § 12; PC 744a.

**FORT BEND COUNTY DRAINAGE DISTRICT**

- Creation, etc., foll. 8197f note.

**FORT GRIFFIN STATE PARK**

- Oil and gas leases, 6077o.

**FORT PARKER STATE PARK**

- Oil and gas leases, 6077o.

**FORT WORTH**

- Police pension system, 6243i.

**FOUNDATION SCHOOL PROGRAM**

- Adjustments in professional allotments, 2922-13.
  - Grounds, 2922-13.
- Administrators, state certificates, necessity, 2922-14.
- Appeal, persons aggrieved by action of central education agency, 2922-19.
- Appropriations, 2922-20.
  - Method of paying, 2922-12.
- Central education agency, appeals from to court of competent jurisdiction by persons aggrieved, 2922-19.
- Citation of act, 2922-11.
- Classroom teacher units, 2922-13.
- Classroom teachers, annual salary, 2922-14.
- Commissioner, determination of amount of local funds chargeable to each school district, computation, etc., 2922-16, § 5.
- Consolidation of dormant school district with adjoining districts, 2922-18.
- Conversion and fraud, 2922-21.
- County line district, consolidation of dormant district with other district, 2922-18.
- County school boards,
  - Consolidation of dormant school districts with other districts, 2922-18.
  - Requisitions for purchase of motor vehicles, etc., for transporting pupils, 634(B).
  - Transportation of pupils, authority to establish system, 2922-15.
- County superintendent of public instruction,
  - Requisition for purchase of motor vehicles, etc., for transporting pupils, 634(B).
  - Transportation system, authority to establish, 2922-15.
- County tax assessor-collector, duties respecting program, 2922-16, § 5.
- Current operating costs, services, 2922-15.
- Districts, contract to transfer entire scholastic enrollment to contiguous district, 2922-13.
- Division of special education, creation in department of education, 2922-13.
- Dormant school defined, 2922-18.
- Economic index for counties, 2922-16, § 3.
- Exceptional children,
  - Defined, 2922-13.
  - Teacher units, 2922-13.
- False swearing, submission of incorrect information to central education agency, 2922-21, § 2.
- Finance, 2922-12, 2922-16, § 1.
- Fraud, 2922-21.
- Fund, motor vehicles to transport pupils, compliance with statute governing prerequisite to participation in foundation school fund, 634(B).
- Index, economic index for counties, 2922-16, § 3.
- Local funds available in each county, 2922-16, § 5.
- Misdemeanor, violation of provisions, 2922-21, § 2.
- Negro schools, allotments for professional Units based on negro attendance utilized in, 2922-13.
- Parochial schools, construction of act respecting, 2922-17.
- Partial invalidity of act, 2922-22.
- Principal units, 2922-13.
- Principals, 2922-14.
- Professional positions and services, 2922-12.
- Professional salaries, total cost of, 2922-14.
- Professional units, 2922-13.
- Purpose of act, 2922-11.
- Repeal of conflicting laws, 2922-22.
- Reports, duty of board of education, etc., to make, 2922-20.
- Rules and regulations, duty to promulgate, 2922-20.

**FOUNDATION SCHOOL PROGRAM (Cont'd)**

- Salary schedule, 2922—14.
- Services,
  - Current operating costs, 2922—15.
  - Transportation, 2922—15.
- Special service teachers,
  - Salary, 2922—14.
  - Units, 2922—13.
- Special services defined, 2922—13.
- State Auditor, authority and duties respecting program, 2922—20.
- State Board of Education, rules and regulations, 2922—20.
- State Board of Vocational Education, rules and regulations, 2922—20.
- State Commissioner of Education,
  - Duties respecting program, 2922—20.
  - Rules and regulations, 2922—20.
- Superintendents, 2922—14.
  - Units, 2922—13.
- Supervisors and/or counsellors,
  - Salary, 2922—14.
  - Units, 2922—13.
- Taxation, declaration of legislative policy, 2922—18.
- Teachers,
  - Annual salary, 2922—14.
  - Eligibility, attendance of nonresident scholars not to count towards, 2922—13.
  - Exceptional children, salary, 2922—14.
  - State certificates, necessity, 2922—14.
- Total cost,
  - Professional salaries, 2922—14.
  - Program, what constitutes, 2922—15, § 4.
- Total local school funds chargeable to all school districts in state, 2922—16, § 2.
- Transportation of pupils,
  - Purchase of motor vehicles, etc., through purchasing division, board of control, 634 (B).
  - Services, 2922—15.
- Violation of provisions, misdemeanor, punishment, 2922—21, § 2.
- Vocational teachers,
  - Salary, 2922—14.
  - Units, 2922—13.

**FRANCHISE TAXES**

- Additional tax, 7084½.
- Corporations in general, process of liquidation, definition, 7097.
- Delinquent taxes preserved as valid binding obligations after default in payment, 7092a.
- Exemptions,
  - State banks, closed, 7085.
  - Terminal companies, 7094.
- Foreign corporations,
  - Bond, 7086, § 3.
  - Deposit with Secretary of State, 7086, § 2.
  - Initial tax, 7086, § 1.
- Forfeiture, charter, 7092a.
- Initial tax, 7086, § 1.
- Lien for taxes,
  - Penalty and interest, preserved after delinquency, time, 7092a.
  - Priority, 7090.
  - Releases, 7089g, 7090.
- Notice of forfeiture of right to do business for failure to pay tax and penalties, 7092a.
- Payment, additional taxes, 7084½.
- Penalties,
  - Failure to report, 7091.
  - Lien, 7090.
- Process of liquidation, definition, 7097.
- Reports, 7087, 7089.
  - Failure to make, 7091.
- State banks, closed, 7085.

**FRATERNAL BENEFIT ASSOCIATIONS OR SOCIETIES**

- Foreign,
  - Annual statement, 4769.
  - Gross receipts tax, 4769.

**FRATERNAL BENEFIT ASSOCIATIONS OR SOCIETIES (Cont'd)**

- Taxation, exemption, gross premium receipts tax, 7064a.

**FRATERNAL SOCIETIES**

- Solicitation of funds, child welfare purposes, 695c, § 8a.

**FRAUD**

- Basic Science Act, healing art license, obtaining without basic science certificate, 4590c, § 14.
- Basic science certificate, obtaining, penalty, 4590c, § 12; PC 744a.
- Foundation school program, 2922—21.
- Mortgage, deed of trust or other lien, fraudulent disposition of property, PC 1558.

**FRAUDULENT CONVEYANCES**

- Movable property or growing crop of farm produce, fraudulent disposition of property subject to mortgage, lien, etc., PC 1558.

**FREEWAY**

- Cities of over 50,000, 1085a.

**FRESH WATER SUPPLY DISTRICTS**

- Annexation of territory by city involved in consolidation, 1182c—1, §§ 1-7.
- Commissioners Court, power to sell water to, 2351, § 20.
- Sale, conveyance, etc., of properties, annexation of territory by city involved in consolidation, 1182c—1, § 2.

**FRIO STATE PARK**

- Oil and gas leases, 6077o.

**FUTURE ESTATES**

- Leasing lands subject to contingent future interest, development of oil, gas, etc., 2320c.

**GAINESVILLE STATE SCHOOL FOR GIRLS**

- Eleemosynary institutions, designation changed, 3174a.
- Texas State Hospitals and Special Schools as not including, 3174b, § 3.
- Transfer to Youth Development Council, 5143c, § 8.

**GAME, FISH AND OYSTER COMMISSION**

- Commercial fishing boat licenses, annual quota set by Commission, PC 934b—2.
- Conservation of wild life resources in certain counties, PC 978n—1.
- Contracts, removal of rough fish and turtles from public fresh waters, 4050c.
- Executive secretary, license deputies, designation by, 4032b, § 7.
- Fees, licenses, fishing in fresh waters, disposition, 4032b, § 8.
- Investigations as to depletion and waste of wild life resources in certain counties, PC 978n—1, §§ 1-3, 8.
- Licenses, commercial fisherman, refusal of license for failure to give information, PC 934b—2.
- Permits, antelope and elk in certain counties, permit for hunting, PC 978n—1, § 8.
- Powers and duties, commercial fishing, PC 934b—2.
- Proclamation, rule, regulation or order for prevention of depletion and waste of wild life resources in certain counties, PC 978n—1.
- Research program, annual survey for change in quota of licenses, PC 934b—2.
- Rough fish, removal from public fresh waters of state, 4050c.
- Rules and regulations, commercial fishing, PC 934b—2.
- Special game and fish fund, fines for violations payable into, PC 934b—2.
- Suits to test validity of act in orders of commission relating to depletion of wild life in certain counties, PC 978n—1, § 12.
- Turtles, removal from public fresh waters, 4050c.



**GAME, FISH AND OYSTER COMMISSION**  
(Cont'd)

Venue of suits to test validity of orders relating to depletion of wild life in certain counties, PC 978n-1, § 12.

**GAME, FISH, OYSTERS, ETC.**

Affidavit of violation of order regulating taking of game in certain counties, PC 978n-1, § 13.

Antelope, permit to hunt in counties comprising 31st Senatorial District and portion of counties in 29th Senatorial District, PC 978n-1, § 7.

Bag limit, fish caught in Lake Texoma, PC 978l-5.

Bait, minnows, taking with fruit jars and seines, etc., authorized, PC 941b.

Bass, Lake Texoma, bag limit, PC 978l-6.

Bream, Lake Texoma, bag limit, PC 978l-6.

Catfish, Lake Texoma, bag limit, PC 978l-6.

Commercial fisherman, license, definition, PC 934b-2.

Commercial fishing boats, license, definition, PC 934b-2.

Compact, Gulf States Marine Fisheries Compact, 4075a.

Consent of owner of land in certain counties to hunting and fishing, PC 978n-1, § 1.

Contracts, removal of rough fish from fresh waters of state, requisites and contents, 4050c, § 3.

Crappies, Lake Texoma, bag limit, PC 978l-6.

Deer,  
Agreements by land owners in counties comprising 31st Senatorial District and portion of counties in 29th Senatorial District, PC 978n-1, § 6.  
Tag, PC 895a.

Definitions, PC 934b-2.

Depletion in certain counties, prevention of, PC 978n-1.

Duplicate license, big game, PC 895a.

Elk, permit to hunt in counties comprising 31st Senatorial District and portion of counties in 29th Senatorial District, PC 978n-1, § 7.

False swearing,  
Application for big game license, PC 895a.  
In affidavit for violating orders relating to game in certain counties, PC 978n-1, § 13.

Fees,  
Big game license, disposition, PC 895a.  
Fishing license, disposition of, 4032b, § 8.  
Permit to hunt antelope and elk in counties comprising 31st Senatorial District and portion of counties in 29th Senatorial District, PC 978n-1, § 8.

Fines and penalties, 4032b, § 12.  
Big game license violations, PC 895a.  
Counties comprising 31st Senatorial District and portion of counties in 29th Senatorial District, PC 978n-1, § 14.  
False swearing, 4032b, § 9.  
Fishing in Lake Texoma, violation of regulations, PC 978l-5.  
Inclosed lands, fishing in, PC 1377.  
Licenses to fish in fresh waters, violations, disposition of, 4032b, § 8.

Fishing in,  
Counties composing 31st Senatorial District and certain counties in 29th Senatorial District, PC 978n-1.  
Inclosed lands, fines and penalties, PC 1377.  
Lake Texoma, PC 978l-5.

Forfeitures, conviction of violation of law respecting license to fish in fresh waters, 4032b, § 13.

Funds,  
Special game and fish fund, 4386b.  
Proceeds of sale of rough fish and turtles payable into, 4050c, § 5.  
Special game fund, fines for hunting or fishing in inclosed lands, PC 1377.

**GAME, FISH, OYSTERS, ETC. (Cont'd)**

Fur bearing animals,  
Counties composing 31st Senatorial District and certain counties in 29th Senatorial District, PC 978n-1.  
Forfeiture of license for violating regulations relating to certain counties, PC 978n-1, § 14.  
Investigations as to depletion in certain counties, PC 978n-1, §§ 1-3, 8.  
Game fish defined, 4050c, § 7.

Gulf States Marine Fisheries Compact, 4075a.

Hunting,  
Counties composing 31st Senatorial District and certain counties in 29th Senatorial District, PC 978n-1.  
Licenses,  
Forfeiture for violating regulation for counties comprising 31st Senatorial District and portion of counties in 29th Senatorial District, PC 978n-1, § 14.  
Form of, big game, PC 895a.

Lake Texoma, fishing in regulated, PC 978l-5.

License deputies, 4032b, § 7.

Licenses and permits,  
Antelopes in counties comprising 31st Senatorial District and portion of counties in 29th Senatorial District, PC 978n-1, § 8.  
Big game, PC 895a.  
Commercial fisherman and commercial fishing boats, PC 934b-2.  
Duplicate license, issuance on loss or destruction of original, fee, 4032b, § 5.  
Elk in counties comprising 31st Senatorial District and portion of counties in 29th Senatorial District, PC 978n-1, § 8.  
Fees, 4032b.  
Fishing in Lake Texoma, PC 978l-5.  
Fishing under another's license, unlawful, 4032b, § 10.  
Forfeiture for violation of regulations for counties comprising 31st Senatorial District and portion of counties in 29th Senatorial District, PC 978n-1, § 14.  
Form of license, 4032b, § 6.  
Minors, license not required, 4032b, § 3.  
Nonresident fishing license, 4032b, § 2.  
Resident fishing licenses, 4032b, § 1.

Local and special acts applicable to enumerated counties, PC 978j note.

Minnows, taking with fruit jars and minnow seines authorized, PC 941b.

Nets and seines,  
Minnows, taking authorized, PC 941b.  
Rough fish, contractor authorized to use, violation of contract, 4050c, § 4.

Nonresident, defined, 4032b, § 4.

Open season counties comprising 31st Senatorial District and portion of counties in 29th Senatorial District, PC 978n-1, §§ 1, 2.

Perch, Lake Texoma, bag limit, PC 978l-6.

Possession, counties composing 31st Senatorial District and certain counties in 29th Senatorial District, PC 978n-1.

Provocation or amendment of rules of order relating to depletion in certain counties, PC 978n-1, § 3.

"Rough fish",  
Defined, 4050c, § 6.  
Removal by commission from public fresh waters of state, 4050c.

Sales, fish, rough fish taken by commission or under contract, disposition of proceeds, 4050c, § 5.

Tidal waters, definition, PC 934b-2.

Turtles, removal from public fresh waters, 4050c.

Wardens, affidavit relating to violation of order regulating game in certain counties, authority to take, PC 978n-1, § 13.

Waste in certain counties, prevention of, PC 978n-1.

- GAME, FISH, OYSTERS, ETC. (Cont'd)**  
 White perch, Lake Texoma, bag limit, PC 9787-6.  
 Wild life resources, defined, PC 978n-1, § 15.
- GARNER STATE PARK**  
 Oil and gas leases, 6077o.
- GARNISHMENT**  
 Lubbock County Court at Law, power to issue writs, 1970-340, § 16.
- GAS**  
 Companies,  
   Gross receipt tax, 7060½.  
   Occupation taxes, 7060½.  
 Standard cubic foot of gas defined, 7047b, § 2(12).  
 Standard Gas Measurement Law, this index.
- GATESVILLE STATE SCHOOL FOR BOYS**  
 Eleemosynary institutions, designation changed, 3174a.  
 Texas State Hospitals and Special Schools as not including, 3174b, § 3.  
 Transfer to Youth Development Council, 5143c, § 8.
- GENERAL ELECTION DAY**  
 Definition, Liquor Control Law, PC 666-55.
- GENERAL PRIMARY ELECTIONS**  
 Definition, Liquor Control Act, PC 666-55.
- GENERAL PROPERTY DEPOSIT**  
 University of Texas, investment, refund of balance, etc., 2654d-1.
- GIFTS**  
 Junior colleges and universities in independent districts containing cities of 380,000 or more, 2815k, § 8(1).  
 Lamar State College of Technology, 2637g, 2637h.  
 State University for Negroes, 2643b, § 8.
- GOLIAD STATE PARK**  
 Oil and gas leases, 6077o.  
 State Parks Board, custody, 6067a.
- GONZALES STATE PARK**  
 State Parks Board, custody, 6067a.
- GOOD CONDUCT**  
 Commutation of time of imprisonment for 6166v, 6184L.
- GOOSE ISLAND STATE PARK**  
 Oil and gas leases, 6077o.
- GOVERNOR**  
**Appointments,**  
   Boards,  
     Basic science examiners, 4590c, § 3.  
     Chiropractic examiners, 4512b, § 3.  
     Regents,  
       Lamar State College of Technology, 2637b.  
       North Texas State College, 2651a.  
       State hospitals and special schools, 3174b, § 2.  
   Commissions and Commissioners, Citrus Commission, 118d, § 2.  
   Interstate Compact Commissioner, 7466g.  
   Naturopathic examiners, 4590d, § 1.  
   Youth Development Council, 5143c, § 4.  
 Death or disability before taking office, succession to office, Const. art. IV, § 3-a.  
 Legislature, joint session, determination of succession to Governor's office, 3040a.  
 Member of or membership held by, Texas Commission on Interstate Co-operation, 4413b-1.  
**Qualification,**  
   Person succeeding to Governorship, Const. art. IV, § 3-a.  
   Succession to office on failure to qualify, Const. art. IV, § 3-a.  
   Tex.St.Supp. '50-55
- GOVERNOR (Cont'd)**  
 Removal of officers, etc.,  
   Lamar State College of Technology, regents, 2637b.  
   Naturopathic Examiners, 4590d, § 1.  
   North Texas State College, board of regents, 2651a.  
**Reports,**  
   Citrus Commission, 118d, § 7.  
   Youth Development Council, 5143c.  
**Succession to Governorship, Const. art. IV, § 3-a.**  
   Disability of Governor-elect or Lieutenant Governor-elect, 3040a.  
 Term of office of person succeeding to office of Governor, Const. art. IV, § 3-a.  
 Texas Commission on Interstate Co-operation, Governor as chairman and member, 4413b-1.  
 Vacancies, filling, board of state hospitals and special schools, 3174b, § 1.
- GOVERNOR JAMES STEPHEN HOGG**  
 Memorial Shrine,  
   Custody, State Parks Board, 6067a.  
 Oil and gas leases, 6077o.
- GRADES**  
 Citrus Commission, this index.
- GRAND JURY**  
 Bailiffs,  
   Automobile allowance, counties of 300,000 to 425,000, CCP 367f.  
 Basic Science Act, enforcement, 4590c, § 15.
- GRAY COUNTY**  
 Wild life resources, regulation and conservation, PC 978n-1.
- GRAZING LANDS**  
 Definition, underground water conservation district, 7880-3c.
- GROSS PREMIUMS TAX**  
 Insurance companies,  
   Additional tax, 4769½; 7064a-1.  
   State hospital fund, additional taxes paid into, 3196b.
- GROSS RECEIPTS TAXES**  
 Offenses, additional taxes, 7057e.
- GUARD RAILS**  
 Fire escapes on school buildings, 3959.
- GUARDIAN AND WARD**  
 Citation, validation of proceedings, 2286a.  
 Contract to convey contingent interest, 4168.  
 Contributions, religious, charitable, etc., causes, authority and conditions, 4192b.  
 Conveyance, contingent interest in property recovered, 4168.  
 Costs, appointment for person receiving public assistance contingent on need, 4123a-1.  
 Fees, appointment for persons receiving public assistance contingent on need, 4123a-1.  
 Notice, validation of proceedings, 2286a.  
 Oil and gas pooling agreements, secondary recovery operations, etc., 6008b.  
 Powers, conveyance of contingent interest in property, 4168.
- GULF OF MEXICO**  
 Mosquito control districts in counties bordering on, 4477-2.
- GULF STATES MARINE FISHERIES COMPACT**  
 Text of compact, 4075a.
- HABEAS CORPUS**  
 Deposit for costs, Supreme Court, (RCP) Rule 485.
- HALL COUNTY**  
 Wild life resources, regulation and conservation, PC 978n-1.
- HAND RAILS**  
 Fire escapes in school buildings, 3959.

**HANSFORD COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**HARDEMAN COUNTY**

Public free school fund, setting aside forfeitures and reinstating original purchases, 5326i.

**HARRIS COUNTY**

Probate court, 1970-110a.

**HARTLEY COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**HAYS COUNTY**

Game and fish, local and special acts, PC 978j note.

**HEALING ART**

Definition, 4590c, § 2; PC 742a.

Licensees, exceptions, Basic Science Act, 4590c, § 16; PC 742-b.

Unlawful practice, PC 742c.

**HEALTH**

Basic Sciences, this index.

Coordinated health program, co-operation with counties and municipal authorities, 4447a.

County-city health units, creation and support, authority, Const. Art. 3, § 48-b.

Horse meat, transportation restrictions, PC 719e.

State Board of Health,

Syphilis, standard serologic test, 4445a, § 2; 4612a, § 4.

State Health Officer,

Syphilis, standard serologic test, list of approved laboratories, 4445a, § 2.

Syphilis,

Premarital examination, 4612a.

Prenatal examination required, 4445a, § 1.

Standard serologic test, regulations; 4445a, §§ 2, 3.

Tax levy,

Health units,

County-city, Const. art. 3, § 48-b.

**HEALTH INSURANCE**

Credit, regulation, 4764c.

Foreign companies,

Annual statement, 4769.

Gross receipts tax, 4769.

Gross premiums tax, additional tax, 4769½.

Loan transactions, issued in connection with, regulations, 4764c.

Reports to commissioner, investment in Texas securities, 7064a.

Taxation,

Gross premium receipts tax, 7064a.

**HEMPHILL COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**HERBICIDES**

Definitions, 135b-2, § 1.

Exemptions,

Areas designated by commissioner, 135b-2, § 5b.

Counties, 135b-2, § 5c.

Experimental users, 135b-2, § 5a.

Lawn and garden use, 135b-2, § 5a.

Fees, 135b-2, § 7.

Rules and regulations, 135b-2, §§ 2, 6.

Amendment, 135b-2, § 8.

Sales, 135b-2.

Bond dealer's, 135b-2, § 4.

License, 135b-2, § 4.

Record, 135b-2, § 5.

Restriction, 135b-2, § 2.

Use,

License, 135b-2, § 4.

Record, 135b-2, § 5.

Restriction, 135b-2, § 3.

Violations, 135b-2, §§ 9, 10.

**HIGHWAY COMMISSION**

Power lines along highways, power to authorize, 1436a.

Water companies,

Notice of intention of laying mains, 1433.

**HIGHWAY DEPARTMENT**

Bond, heavy trucks and equipment, 6701a.

**HOLES**

Open, prohibited, PC 1721.

**HOME RULE CITIES OR TOWNS**

Annexation of territory, validation, 974c-4.

Bonds,

Natural gas system, revenue bonds, additional bond issue authorized for acquiring buildings, etc., 1015h.

Revenue and refunding bonds,

Additional bonds authorized, improvement and extending sewer and water systems, etc., 1111a.

Lighting and power systems, additional bond issue for extension and improvement authorized, etc., 1111b.

Boundaries, map to be kept showing boundaries and changes, 971a.

Tax exemption, bonds for electric light and power service, 1110b.

Validation,

Ad valorem taxes not exceeding legal limit, 2790a-6.

Annexation of territory, 974c-4.

Electric light and power system, acts, bonds, etc., relating to, 1110b.

**HOMESTEAD**

Exemption,

Taxation, Const. art. VIII, §§ 1-b, 1-c.

Ad valorem tax, 7048a, § 2.

Taxation,

Exemption from, Const. art. VIII, §§ 1-b, 1-c.

Ad valorem tax, 7048a, § 2.

County ad valorem tax, Const. art. VIII, § 1-a.

**HOMICIDE**

Lynching, generally, this index.

**HORSE MEAT**

See, also, Meat and Meat Products, generally, this index.

Sale for human consumption, P.C. 719e.

Transportation, restrictions, PC 719e, § 4.

**HOSPITALIZATION**

Navigation district employees, 8235a, § 6, 8263j, § 3.

**HOSPITALS**

See State Hospitals, this index.

**HOTELS AND BOARDING HOUSES**

Hotel defined, Liquor Control Act, PC 666-3a.

**HOUSING**

Commissioners court, authority to acquire housing facilities from United States, 2351, subd. 19.

**HOUSTON COUNTY**

Stock law election, 6954.

**HUNTSVILLE STATE PARK**

Dam, building or repair, 6077p.

Oil and gas leases, 6077o.

Timber, sale, 6077p.

**HUSBAND AND WIFE**

Separate property, Const. art. XVI, § 15.

Support of wife, investigation by juvenile officer of husband's ability to support, 5142c, § 3.

Wills, surviving wife as principal beneficiary, afterborn and posthumous children, 8293.

**HUTCHINSON COUNTY**

Public free school fund lands, setting aside forfeitures and reinstating original purchases, 1526i.

Wild life resources, regulation and conservation, PC 978n-1.

**IMPERSONATION**

See False Personation, this index.

**IMPORTS**

Beer, tax on imported beer, PC 667-23A.

**IMPROVEMENT DISTRICTS**

Deposits, discharge of depository's liability, 342-707a.

**INCLOSED LANDS**

Defined, PC 1377.

**INCOME TAX**

Federal taxes, ward's estate, contributions authorized if deductible, 4192b.

**INCORPORATED TOWNS**

Defined, §280-2, § 1.

**INDECENCY**

Enticing or inviting child for purpose of proposing fondling of sexual parts, PC 535b.

Handling or fondling sexual parts of minor, PC 535d.

Indecent exposure to infant or minor, PC 474, 535c.

**INDEPENDENCE STATE PARK**

Oil and gas leases, 6077o.

**INDUSTRY**

Commutation of time for prisoner's industry, 6184l.

**INFANTS**

Indecent exposure to infant, PC 535c.

Offense, PC 474.

Institutions, superintendents, appointment and removal, 5142b, § 7.

Intoxicating liquor,

Purchase unlawful, penalty, PC 666-17.

Juvenile board,

Counties of 190,000 to 224,000, 5142c.

Counties under 70,000, forming part of a judicial district of four or more counties on international boundary, 5139D.

Salaries, recommendation to commissioners court, 5142d.

Juvenile officers, salary, commissioners court to fix, 5142d.

Lewd or lascivious conduct,

Enticing or inviting child for purpose of, PC 535b.

Placing hands or fondling sexual parts of minor, PC 535d.

Offenses against,

Enticing or inviting child for purpose of lewd and lascivious conduct, PC 535b.

Indecent exposure to infant, PC 474, 535c.

Placing hands upon or fondling sexual parts of child, PC 535d.

Prenatal examinations for syphilis. Syphilis, this index.

Probation officers,

Counties of 190,000 to 224,000, powers and duties, 5142c.

Counties of 220,000 to 320,000,

Automobiles, 5142b, § 17.

Chief probation officer and assistants, superintendents of institutions, appointment and removal, 5142b, § 7.

Salaries, commissioners court to fix, 5142d.

Removal of disabilities,

Veterans honorably discharged, 5921a.

Youth Development Council, this index.

**INJUNCTIONS**

Appeal, (RCP) Rule 385.

Basic Science Act, restraining violations, 4590c, § 15.

**INJUNCTIONS (Cont'd)**

Carbon black producer delinquent in payment of tax from producing carbon black, 7047o.

Child welfare agencies, unlicensed solicitation for or management, 695c, § 8a.

Chiropractic Act, restraining violations, 4512b, § 18.

Citrus Commission Act, enforcement of act, 118d, § 6.

Deposit for costs,

Court of Civil Appeals, (RCP) Rule 388-A. Supreme Court, (RCP) Rule 485.

Lubbock County Court at Law, power to issue writs, 1970-340, § 16.

Naturopathic, violations of act relating to, 4590d, § 15.

Real estate dealers, violations of statute governing, 6573a, § 21.

Restraining order, temporary, bond, (RCP) Rule 684.

Temporary,

Bond, (RCP) Rule 684.

State or subdivision, bond, (RCP) Rule 684.

**INJURIES**

Defined,

Workmen's Compensation Law for county employees, 8309c.

**INJURY SUSTAINED IN COURSE OF EMPLOYMENT**

Defined, Workmen's Compensation Law for county employees, 8309c.

**INKS LAKE STATE PARK**

Oil and gas leases, 6077o.

**INLAND INSURANCE**

Foreign companies, unauthorized to do business,

Agents, licensing bond and tax, 5068e, § 2.

Policies,

Actions on, 5068e, §§ 4-7.

Regulation of placing, 5068e, § 1.

**INSANE PERSONS**

Discharge,

Inmate of state hospital, regulations, 5561b.

Lunacy proceedings,

Citation, validation, 2286a.

Notice, validation, 2286a.

Mexia State School and Home, generally, this index.

Reconfinement, 5561b.

Restoration proceedings, state hospital inmate, 5561b.

**INSPECTION AND INSPECTORS**

Antifreeze, 165-6, § 4.

Books and records,

Livestock Auction Commission Merchant, motor vehicles transporting livestock for sale, 1287a.

Herbicides, 135b-2, §§ 5, 6.

Vegetable plants, 118e.

**INSTRUCTIONS**

Request for, separate from objections to charge, (RCP) Rule 273.

**INSURANCE**

Advisory organizations,

Examinations, 4698b, § 3.

Regulation, 4698b, § 2.

Agents,

Bond, unauthorized foreign company, 5068e, § 2.

Liability of, acting for unauthorized foreign company, 5068e, § 3.

License and license taxes,

Foreign company unauthorized to do business, policies of direct insurance 5068e.

Definition, Workmen's Compensation Law for county employees, 8309c.

**INSURANCE (Cont'd)**

- Foreign companies,
  - Reinsurance, generally, this index.
- Gross premium tax, additional tax, 7064a—1.
- Investments,
  - Bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf Coast, 6795b—1, § 7b.
  - Texas securities,
    - Report to commissioner, 7064a.
- Liability insurance, Liquefied petroleum gas licensee, 6053, § 11.
- Liquefied petroleum gas licensee, 6053, § 11.
- Pensions and pension plans, power of corporations to contract with reference to, 1327a.

**INSURANCE COMMISSIONERS**

- Agent for service of process,
  - Unauthorized foreign company, 5068e, §§ 4-6.
- Certificates of authority,
  - Agents, unauthorized foreign company, 5068e, § 2.
- Examinations,
  - Advisory organizations, 4698b, § 3.
  - Joint underwriting or joint reinsurance, 4698b, § 3.
- Hearings, credit insurance, 4764c, § 12.
- Licenses,
  - Revocation,
    - Credit insurance, 4764c, § 11.
- Policies, statutory requirements, enforcement, 4929a.
- Reports, investments, 4769a, 7064a.
- Rules and regulations, credit insurance, 4764c, § 9.

**INTEREST**

- Bonds,
  - School bonds, refunding interest, 2789.
- Occupation taxes,
  - Carbon black producers, delinquent additional tax, 70470.
  - Gas producer, additional tax, 7047b, § 1½.
  - Oil producer, additional tax, 7057a, § 2A.
  - Sulphur producer, additional tax, 7047n.
- Warrants issued by independent school districts in counties of more than 18,975 and less than 19,025, 2790d—8.

**INTERNATIONAL BOUNDARY**

- County Juvenile Board in counties bordering on International Boundary, 5139.
- Interpreters for Judicial Districts in counties bordering on, 3737d.

**INTERPRETERS**

- Judicial districts in counties bordering on International Boundary, 3737d.
- Lubbock County Court at Law, 1970—340, § 26.

**INTERROGATORIES**

- Adverse party, (RCP) Rule 188.

**INTERSTATE COMPACT**

- Gulf States Marine Fisheries Compact, 4075a.
- Pecos River Compact, 7466f.
- Water, certain rivers, 7466g.

**INTERSTATE COMPACT COMMISSIONER**

- Term, salary, duties, etc., 7466g.

**INTOXICATING LIQUORS**

- Administrator,
  - Assistant administrator, appointment, qualifications, etc., PC 666—5a.
  - Cancellation of permit, PC 666—49a.
    - Sacramental wine, PC 666—15a1.
  - Suspension of permit, PC 666—49a.
  - Vacancy in office, assistant administrator to perform duties, PC 666—5a.
- Advertising,
  - Sound truck, hand bills, etc., unlawful, PC 666—50.
- Ale defined, PC 666—3a.

**INTOXICATING LIQUORS (Cont'd)**

- Applicant defined, PC 666—3a, 666—11.
- Assistant administrator, appointment, qualifications, etc., PC 666—5a.
- Band, use by licensee on premises in indecent, etc., manner, PC 666—15a.
- Beer or malt liquors,
  - Advertising, outdoor advertising, PC 667—24a.
  - Advertising material defined, PC 667—24a.
  - Delivery to places other than licensed place of business regulated, PC 667—31.
  - Illicit beverage, liquor imported, manufactured or distributed without testing or approval by control board, PC 667—28.
  - Importation,
    - Sample to be analyzed and approved by board before importation, PC 667—28.
    - Taxes, PC 667—23¼.
  - Importer defined, PC 667—23¼.
  - Licenses and permits,
    - Branch distributor's license, PC 667—3.
    - Display at location other than for which granted unlawful, PC 667—31.
    - General distributor's license, PC 667—3.
    - Local distributor's license, PC 667—3.
  - Manufacture and distribution, testing and approval of label and sample of beer, etc., PC 667—28.
  - Manufacturer or distributor,
    - License on expiration of branch license, PC 667—3.
    - Tax, PC 667—23¼.
  - Military beer, transportation, unlawful, PC 667—29.
  - Tax, PC 667—23¼, 667—23A.
  - Transportation,
    - Requirements for legality of, PC 667—29.
- Board, defined, PC 666—3a.
- Cancellation or suspension of license or permit,
  - Temporary suspension, power, PC 666—49a.
- Carriers,
  - Transportation of beer illegal without prescribed prerequisites, PC 667—29.
- Certification of compliance with law of samples, containers, labels, spirits shipped into state, PC 666—56.
- Citizenship,
  - Application for permit, ground of refusal, PC 666—11.
- City clerk or secretary, certification whether applicant located in wet area, etc., PC 666—54.
- Consignment sales, interest of permittee in unlawful, PC 666—53.
- Containers,
  - Defined, PC 666—3a.
- Costs,
  - Security not required of control board's representative in license issuance proceedings, PC 667—30.
- County clerk,
  - Certification whether location in application is wet area, etc., PC 666—54.
- County judge,
  - Refusal of application for license to manufacture or distribute beer, ground, PC 667—5.
  - Security for costs not required of control board representative in proceeding, PC 667—30.
  - Supervisors of election, appointment, PC 666—36½.
- Devices, sale of forfeited devices on packaged liquor, PC 666—30.
- Distiller, unlawful acts by permittee, PC 666—17.
- District court,
  - Certified copy of conviction to be furnished Liquor Control Board, PC 666—41a.
- Elections, supervisors, appointment, powers, duties, etc., PC 666—36½.

**INTOXICATING LIQUORS (Cont'd)**

- Entertainer, use by licensee on premises in indecent, etc., manner, PC 666-15a.
- False statements,  
Application, permit, refusal to issue, PC 666-11.
- Felony conviction, cancellation of permit, PC 666-17.
- First sale, tax on, PC 666-21½.
- General election day defined, PC 666-55.
- General primary election defined, PC 666-55.
- Hand bills, advertising by unlawful, PC 666-50.
- Hotel defined, PC 666-3a.
- Import,**  
Persons under 21, unlawful acts, PC 666-17.
- Importer, defined, PC 667-23¼.
- Infants,  
Purchase of, penalty, PC 666-17.
- Labels, approval by Liquor Control Board, spirits shipped into state, PC 666-56.
- Liquor control act,  
Illicit beverages, PC 666-21½.  
Imported liquor, additional tax on, PC 667-23A.  
Inventory for tax purposes, PC 666-21½.  
Sales, first sale, tax on, PC 666-21½.  
State treasurer to supply tax stamps, PC 666-21½.
- Liquor control board,**  
Cancellation or suspension, permit, PC 666-52.  
Duration of suspension, PC 666-49a.  
Sacramental wine, PC 666-15a1.  
Transportation within state, private carriers PC 666-52.
- Rules and regulations,  
Inventories, issuance and distribution of stamps, etc., PC 666-21½.  
Stamp tax, PC 666-21½.  
Security for costs not required, PC 667-30.
- Testing and approval,  
Sample of beer, etc., before importation, PC 667-28.  
Samples and labels on spirits shipped into state, PC 666-56.  
Samples of distilled spirits shipped into state, PC 666-56.
- Local cartage permit,  
Cancellation or suspension, PC 666-52.  
Holder of package store or wine only package store permit authorized to hold, PC 666-52.
- Local option election,  
Supervisors, appointment, powers, duties, etc., PC 666-36½.
- Loudspeaker or public address system, use by licensee on premises in indecent, etc., manner, PC 666-51a.
- Malt liquor defined, PC 666-3a.
- Medicinal permits, cancellation or suspension, PC 666-49a.
- Misdemeanor,  
Peace officer failing to file report of liquor confiscated, PC 666-30.
- Motor boats, operating while intoxicated, misdemeanor, PC 1333A.
- Music machine, use by licensee on premises in indecent, etc., manner, PC 666-51a.
- Oath,**  
Assistant administrator, PC 666-5a.
- Orchestra, use by licensee on premises in indecent, etc., manner, PC 666-51a.
- Package store permit,  
Cancellation or suspension, PC 666-49a, 666-52.  
Holder authorized to hold local cartage permit, PC 666-52.
- Peace officers, report, confiscation of liquor, penalty, PC 666-30.

**INTOXICATING LIQUORS (Cont'd)**

- Permit,**  
Cancellation or suspension,  
Conviction of felony, PC 666-17.  
Local cartage permittee holding other permits convicted of violation, PC 666-52.  
Sacramental wine, PC 666-15a1.  
Sale, distribution, etc., during suspension period unlawful, PC 666-17.
- Interest of permittee in consignment sale unlawful, PC 666-53.
- Nonresident seller's permit, PC 666-15½.  
Testing and approval of samples, etc., spirits shipped into state, PC 666-56.
- Sale, distribution, etc., during period of permit suspension, PC 666-17.
- Wine only package store permit, PC 666-15.  
Cancellation or suspension, PC 666-49a.  
Unlawful acts of permittees, PC 666-17.
- Permittee defined, PC 666-3a, 666-12.
- Phonograph, use by licensee on premises in indecent, etc., manner, PC 666-51a.
- Piano, use by licensee on premises in indecent, etc., manner, PC 666-51a.
- Radio,**  
Advertisement of alcoholic beverages, PC 667-5A.  
Use by licensee on premises in indecent, etc., manner, PC 666-15a.  
Use on premises of licensee unlawful, PC 666-51a.
- Rectifier, unlawful act by permittee, PC 666-17.
- Sales,**  
Contraband liquor, equipment, etc., PC 666-42.
- Samples,**  
Beer, etc., testing and approval before importation, PC 667-28.  
Distilled spirits, testing and approval by board before shipment into state, PC 666-56.
- Security for costs, not required of Liquor Control Board's representative, PC 667-30.
- Singer, use by licensee on premises in indecent, etc., manner, PC 666-15a.
- Sound trucks, advertising intoxicating liquors unlawful, PC 666-50.
- Supervisors of elections, PC 666-36½.
- Television,**  
Advertisement of alcoholic beverages, PC 667-5A.  
Maintenance on premises, unlawful, PC 666-51a.
- Warehouse receipts for alcoholic beverages, sale by bank, trust company, etc., owner on death of permittee or licensee, etc., PC 666-13.
- Wholesaler, unlawful act by permittee, PC 666-17.
- Wine only package store, curtains, hangings, signs, etc., prohibited, PC 666-17.
- Wine only package storage permit, PC 666-15.  
Cancellation or suspension, PC 666-49a, 666-52.  
Holder authorized to hold local cartage permit, PC 666-52.
- INVENTORIES**  
Intoxicating liquors for purpose of stamp tax, PC 666-21½.
- INVESTMENTS**  
Building and loan association shares, sinking funds, municipalities, school districts, etc., 836.  
Federal savings and loan associations, sinking fund of municipalities, school districts, etc., in shares, 836.  
Guardian and ward, bonds, bridge, causeway and tunnel bonds, counties of 50,000 or more on Gulf Coast, 6795b-1, § 7b.

**INVESTMENTS (Cont'd)**

Sinking funds, counties, cities, towns, school districts, etc., 836.

**IRRIGATION DISTRICTS**

Assumption of bonded indebtedness by city annexing territory or district, 8280-2, § 4.

**Bonds,**

Election to assume bonds of district annexed to city, 8280-2, § 4.

Liability of city lands, removal from district taxation, 8280-4.

Taxation of land in cities withdrawn from district to pay bonded debts, 8280-2.

Cities, exclusion of land in incorporated city from district, 8280-2.

Election to assume bonds of district annexed to city, 8280-2, § 4.

**Taxation,**

Land in incorporated city excluded from district to pay bonded debt, 8280-2.

Removal of city lands, 8280-4.

Withdrawal of lands in incorporated city from district, 8280-2.

**ISLANDS**

Parks on, counties on Gulf, 6079c.

**JAILS AND JAILERS****Counties,**

Additional facilities, 2370a.

Commissioners courts, counties of 90,000 to 225,000, 2372j.

**JEFF DAVIS STATE PARK**

Oil and gas leases, 6077o.

**JEFFERSON COUNTY**

County court at law, 1970-111 to 1970-126.

Criminal district attorneys, CCP 52-160b.

**JIM HOGG STATE PARK**

Oil and gas leases, 6077o.

**JOHN TARLETON AGRICULTURAL COLLEGE**

Name, change to Tarleton State College, 2616a.

**JOHNSON COUNTY**

County court, jurisdiction, 1970-335.

**JOINT COUNTY JUNIOR COLLEGE DISTRICTS**

Disannexation of territory, 2815p.

Election for establishment, 2815h-3b.

Elections, 2815m-1.

**Trustees,**

Election, 2815m, 2815m-1.

Terms, 2815m.

**JUDGES**

Charge, objections, separate from request for instructions or special issues, (RCP) Rule 273. 134th judicial district, 199(134).

Reassignment of retired judge to active duty, legislative power to provide for, Const. art. V, § 1-a.

Retirement, 6228b.

Retirement and compensation, legislative power to provide for, Const. art. V, § 1-a.

Salaries, 6819a-4.

Legislative power to provide for retirement and compensation, Const. art. V, § 1-a.

Retired Judge, legislative power to provide for, Const. art. V, § 1-a.

**JUDGMENTS AND DECREES**

Default, published service, trial required, (RCP) Rule 812.

Summary, (RCP) Rule 166-A.

**JUNIOR COLLEGES AND UNIVERSITIES**

Actions by regents, 2815k, § 6.

Addition of territory, validation, 2815h-6.

Annexation, common or independent districts, 2815n.

Board of regents, establishment, 2815o.

**JUNIOR COLLEGES AND UNIVERSITIES (Cont'd)****Boards of trustees,**

Districts with annexed common or independent school districts.

Election, 2815n, §§ 3, 7.

Establishment, 2815n, §§ 1, 2.

Terms, 2815n, §§ 4, 5.

Elections, 2815m-1.

Vacancies, joint county junior college districts, 2815m-1.

**Bonds,**

Election to determine assumption by enlarged district, 2815s.

Funding and refunding, authority, 2815h-5.

Investment of teachers retirement funds in, 2922-1.

Validation of issue, 2815h-6.

Borrowing money, 2815k, § 6.

Contracts, 2815k, § 6.

Cottages, construction, equipment, self-liquidating, 2815r.

**Districts,**

Annexation of territory, 2815s, § 2.

Boards of trustees, generally, ante.

Bonds, generally, ante.

Boundaries extended on extension of independent school district, 2815s.

Election to determine assumption of bonds and levy of taxes by enlarged districts, 2815s.

Scholastic enrollment of proposed district, 2815h, § 17a.

Tax rate, 2815g-43, § 2.

Taxes, election by enlarged district, 2815s.

Transfer of properties of dissolved district to senior college within district, 2815q.

Validation of districts, acts of trustees, 2815g-43, § 1.

Dormitories, construction, equipment, self-liquidating, 2815r.

Elections, assumption of bonds and levy of taxes by enlarged districts, 2815s.

Exemptions, 2815k, § 6.

Gifts to colleges and universities in independent school districts containing city of 380,000 or more, 2815k, § 8(1).

Independent districts or cities, districts containing city of 380,000 or more, 2815k, § 8(1).

Joint County Junior College Districts, generally, this index.

Judgments, payment of, 2815k, § 6.

Liens, 2815k, § 6.

Panola County Junior College at Carthage, appropriation, 2815j-2.

Property, independent school districts containing city of 380,000 or more, 2815k, § 8(1).

Public corporation, junior colleges and universities in cities of 380,000 or more, 2815k, § 8(1).

Self-liquidating dormitories, cottages, stadiums, 2815r.

Stadiums, construction, equipment, self-liquidating, 2815r.

Taxes, election to determine levy by enlarged district, 2815s.

**Validation,**

Annexation of territory, bond issues, tax levies, etc., 2815h-6.

**JURISDICTION**

Concurrent, Lubbock County Court at Law with justice courts, 1970-340, §§ 3, 5.

**JURORS**

Summoned, sheriff's power to summon in counties having nine or more district courts, CCP 367g.

**JURY**

Application and fee, (RCP) Rule 216.

Bailiff to be in charge of general panel, CCP 367g.

- JURY (Cont'd)**  
 County Courts,  
   Lubbock County Court, 1970—340, § 7.  
   Lubbock County Court at Law, 1970—340, § 7.  
 Formation in capital cases,  
   Special venire, refusal, counties having a city of 231,500, CCP 601-A.  
   Trial before regular jurors and additional talesmen, refusal of special venire, CCP 601-A.  
 Lubbock County Court at Law, 1970—340, § 19.  
 Right to trial by, naturopathic physicians' licenses, suspension or cancellation proceedings, 4590d, § 10.  
 Selection and drawing,  
   Counties having two or more district courts, 2094.  
   Counties of 46,000 and over containing city of 20,000, 2094.  
   Lubbock County Court at Law, 1970—340, § 19.  
 Sheriff in certain counties to be in charge of general panel, etc., CCP 367g.  
 Summon, bailiff's power to summon, CCP 367g.  
 Transfer of jurors between Lubbock County Court and Lubbock County Court at Law, 1970—340, § 7.
- JURY WHEEL**  
 Cards put in wheel, procedure, 2095.  
 Counties of 46,000 and more having city of 20,000, selecting names for wheel, 2094.
- JUSTICES OF THE PEACE**  
 Appeals from, Lubbock County Court at Law, 1970—340, § 25.  
 Compensation, fees or salaries,  
   Counties having eight district courts, two criminal district courts, four county courts, including two county courts at law and one county criminal court, 3936g.  
   Counties of over 350,000, 3936h.  
   Criminal trials, fees, CCP 1052.  
 Criminal cases, fee, paid by defendant on conviction, CCP 1052.  
 Employees, deputies and assistants, counties of 301,000 to 398,000, 3912e—15.  
 Lubbock County Court at Law to exercise concurrent jurisdiction with justice courts, 1970—340, § 3.
- JUVENILE BOARDS**  
 Counties under 70,000 forming part of judicial district of four counties on international boundary, 5139D.  
 Powers and functions, counties of 500,000 or more, 2372h, § 6.
- JUVENILE COURT**  
 Commitment, Youth Development Council, 5143c, §§ 12—15.  
 Creation, counties having ten or more district courts with juvenile board composed of district judges, etc., 2338—2.  
 Establishment, 2338—1, § 4.  
 Probation service, Youth Development Council, 5143c, § 16.
- JUVENILE OFFICERS**  
 Appointment, 5142c—1, § 1.  
 Audit of accounts, 5142c—1, § 6.  
 Bond, 5142c—1, § 5.  
 Counties of 225,000 to 390,000, 5142b, § 1.  
 Divorce suits, examination of merits, 5142c—1, § 7.  
 Expenses, 5142c—1, § 1.  
 Inspection of records of, 5142c—1, § 6.  
 Investigations, 5142c—1, § 7.  
   Record of, 5142c—1, § 6.  
   Wife and child desertion cases and ability to support wife or child, 5142c—1, § 3.
- JUVENILE OFFICERS (Cont'd)**  
 Payment and disbursement by officer of money paid for support of wife or children, 5142c—1, § 4.  
 Records, 5142c—1, § 6.  
   Wife and child desertion cases, 5142c—1, § 3.  
 Reports,  
   Examination of claim for divorce, 5142c—1, § 7.  
   Investigations, 5142c—1, § 3.  
 Salary, 5142c—1, § 1.  
 Term of office, 5142c—1, § 1.
- KATEMICY STATE PARK**  
 Oil and gas leases, 6077o.
- KERRVILLE STATE PARK**  
 Oil and gas leases, 6077o.
- KERRVILLE STATE SANATORIUM**  
 Eleemosynary institutions, designation changed, 3174a.  
 Texas State Hospitals and Special Schools as including, 3174b, § 3.
- KINGS STATE PARK**  
 Oil and gas leases, 6077o.  
 State Parks Board, custody, 6067a.
- LABELS**  
 Antifreeze, 165—6, § 3.
- LABOR**  
 Work and labor, this index.
- LABOR AGENTS**  
 Definitions, 5221a—5, § 1.  
 Enforcement of act, 5221a—5, § 12.  
 Exceptions, 5221a—5, § 2.  
 Fees, 5221a—5, § 3a.  
 Licenses,  
   Application and bonds, 5221a—5, § 3.  
   Cancellation, 5221a—5, § 5.  
   Display, 5221a—5, § 10.  
   Doing business without, 5221a—5, § 11.  
   Fee, 5221a—5, § 3.  
 Occupation tax, 5221a—5, § 4.  
 Offenses and penalties, 5221a—5, §§ 7c, 11, 13.  
 Out-of-state agencies, 5221a—5, § 6.  
 Private employment agency law, exception, 5221a—6, § 2.  
 Reports, 5221a—5, § 7.
- LABOR OR MATERIALS FURNISHED**  
 Action on account for, prima facie evidence, (RCP) Rule 185.
- LABOR UNIONS**  
 Labor agency law, exception, 5221a—5, § 2.  
 Private employment agency law, exception, 5221a—6, § 2.
- LABORATORY**  
 Private, state health department approval, standard serologic test for syphilis, 4612a.  
 Standard serologic test for syphilis, 4445a, § 2, 4612a.  
 State, standard serologic test for syphilis, premarital, 4612a.
- LAKE CORPUS CHRISTI STATE PARK**  
 Oil and gas leases, 6077o.
- LAKE TEXOMA**  
 Fishing in regulated, PC 9781—5, 9781—6.
- LAMAR STATE COLLEGE OF TECHNOLOGY**  
 Acquisition of property of Lamar Union Junior College District, prerequisite to instituting courses, etc., 2637h.  
 Appropriations, 2637e.  
 Board of regents, 2637b.  
   Courses of study, additional courses, 2637d.  
   Courses of study and degrees, etc., 2637c.  
   Donations, gifts and endowments, authority to accept, 2637g.  
   Courses of study, 2637c.  
   Additional courses, 2637d.



**LAMAR STATE COLLEGE OF TECHNOLOGY**

(Cont'd)  
 Creation, 2637a.  
 Degrees and diplomas, 2637c.  
 Donations, gifts and endowments, 2637g.  
 Eminent domain, power of, 2637f.  
 Organization, control and management, 2637b.  
 President, selection by regents, 2637b.  
 Term of office, regents, 2637b.

**LAMAR UNION JUNIOR COLLEGE DISTRICT OF JEFFERSON COUNTY**

Transfer of properties and facilities to Lamar State College of Technology, 2637h.

**LASCIVIOUSNESS**

Minor,

Enticing or inviting minor to place for purpose of proposing lascivious act, PC 535b.

Handling or fondling sexual parts of, PC 535d.

**LEASES AND LEASING**

Causeways, bridges and tunnels by commissioners courts, 6795b—1, § 5a.

County real estate by commissioners' court, procedure, 1577.

State parks, 6070e.

Telephone cooperative corporations, 1528c, §§ 4, 23.

**LEAVES OF ABSENCE**

National Guard service, etc., public employees, 5769b.

**LEGAL BENEFICIARIES**

Defined,

Workmen's Compensation Law for county employees, 8309c.

**LEGAL NOTICES**

Failure to publish, loss of salary, etc., 6252—2.

**LEGISLATIVE BUDGET BOARD**

Legislature, generally, this index.

**LEGISLATIVE COUNCIL**

Legislature, generally, this index.

**LEGISLATIVE REDISTRICTING BOARD**

Creation, membership and power to apportion senatorial and legislative districts, Const. art. III, § 28.

**LEGISLATURE**

Apportionment, Legislative redistricting board, Const. Art. III, § 28.

Commissioners of Courts, power to provide for retirement and compensation, Const. art. V, § 1-a.

Counties, Workmen's compensation, power of Legislature to authorize counties to provide, Const. art. III, § 60.

Governor, succession to office determined by joint session on disability, etc., 3040a.

House of Representatives,

Speaker,

Second vice chairman and member, Texas Commission on Interstate Cooperation, 4413b—1.

Judges, power of Legislature to provide for retirement and compensation, Const. art. V, § 1-a.

Legislative Budget Board, organization, functions, etc., 5429c.

Legislative council, organization, duties, etc., 5429b.

Legislative Redistricting Board, creation, membership and power to apportion legislative and senatorial districts, Const. art. III, § 28.

Reports,

Citrus Commission, 118d, § 7.

Legislative council, 5429b, § 4.

Youth Development Council, 5143c.

**LEGISLATURE (Cont'd)**

Workmen's Compensation Law, power of Legislature to authorize counties to provide insurance for county employees, Const. art. III, § 60.

**LEVEE IMPROVEMENT DISTRICTS**

Commissioners' court, co-operation with, flood control projects, 1581e.

**LEVEES**

Construction, county flood control, 1581e.

Flood control, 1581e.

**LEWDNESS**

Minor, inducing or inviting minor to place for purpose of proposing lewd conduct, PC 535b.

**LICENSES AND LICENSE TAXES**

Child-placing and child-caring facilities, 695c, § 8a.

Chiropractic, this index.

Employment Agents, this index.

Herbicides, 135b—2.

Labor Agents, this index.

Liquefied petroleum gas, 6053, §§ 7, 9, 10, 12—14.

Mercantile Establishments, generally, this index.

Milk and ice cream vending machines, 7047a—3.

Naturopathic, this index.

Private employment agents, 5221a—6.

Solicitors of funds, child-placing and child-caring facilities, 695c, § 8a.

Telephone cooperative corporations, 1528c, § 29.

**LIENS**

Abilene State Hospital, support, maintenance and treatment of non-indigent patients, 3232a, § 11.

Maritime, supplies and materials, etc., 5500.

Navigation districts, crops, irrigation water, 8263h, §§ 51, 52.

Occupation taxes, 7057e.

Priority,

Occupation taxes, 7057e.

Tax liens, occupation taxes, 7057e.

**LIEUTENANT GOVERNOR**

Governor, succession to office, Const. art. IV, § 3-a.

Legislative Redistricting Board, member of, Const. art. III, § 28.

Member of,

Legislative redistricting board, Const. Art. III, § 28.

Texas Commission on Interstate Co-operation, 4413b—1.

Per diem and traveling expenses while serving as member of Legislative Redistricting Board, Const. art. III, § 28.

Term of office of Lieutenant Governor acting as Governor, Const. art. IV, § 3-a.

Texas Commission on Interstate Co-operation, first vice chairman and member, 4413b—1.

**LIFE AND ACCIDENT INSURANCE COMPANIES**

Foreign companies,

Annual statement, 4769.

Gross receipts tax, 4769.

**LIFE, HEALTH AND ACCIDENT INSURANCE COMPANIES**

Foreign companies,

Annual statement, 4769.

Gross receipts tax, 4769.

Gross premium receipt taxes, additional tax, 7064a—1.

Gross premiums tax, additional tax, 4769½.

Investments, report of, 7064a.

Premium tax, 7064a.

**LIFE INSURANCE COMMISSIONER**

State board of trustees, member of, 6228a, § 6.

**LIFE INSURANCE COMPANIES**

Credit life insurance, regulation, 4764c.

Foreign companies,

Annual statement, 4769.

Gross receipts tax, 4769.

Investments,

Debentures, etc., of public utility corporations, 4725, § 6.

Preferred stock of public utility corporations, 4725, § 7.

Reports, 4769a, 7064a.

Texas securities and Texas real estate, 4769.

Policies,

Loan transactions, issue in connection with, regulation, 4764c.

Public utility corporations, investment in preferred stock, debentures, etc., 4725, §§ 6, 7.

State educational institutions, bonds or interest-bearing warrants of as Texas securities, 4766.

Taxation, premium receipts, 7064a.

**LIMITATIONS, STATUTE OF**

Franchise tax liens, 7090.

**LIPANTITLAN STATE PARK**

Oil and gas leases, 6077o.

State Parks Board, custody, 6067a.

**LIPSCOMB COUNTY**

Wild life resources, regulation and conservation, PC 973n-1.

**LIQUID HYDROCARBONS**

Occupation tax, 7047b, § 1½.

**LIQUEFIED PETROLEUM GAS**

Bonds of licensee, 6053, § 11.

Department of Public Safety, co-operation with Railroad Commission in enforcement of law, 6053, § 6.

Fees, licensees, 6053, § 10.

Installation of containers, equipment, etc., employment of qualified persons, 6053, § 8.

Insurance, licensee, 6053, § 11.

License and license fees, 6053, §§ 7, 9, 10, 12-14.

Railroad Commission, rules and regulations, 6053, § 6.

Repairs of containers, etc., employment of qualified persons, 6053, § 8.

Rules and regulations, 6053, § 6.

Safety and protection of public, 6053, § 7.

**LLOYD'S INSURANCE**

Gross receipts tax, additional tax, 7064½.

Occupational tax, additional tax, 7064½.

**LOANS**

Texas municipal retirement system, 6243h-1.

**LOCAL CARTAGE PERMIT**

Intoxicating liquors,

Cancellation or suspension, PC 666-52.

Package store and wine only package store permittees authorized to hold, PC 666-52.

**LOCAL MUTUAL AID ASSOCIATIONS**

Foreign, gross receipts tax, 4769.

Investments, report, 7064a.

Premium tax, exemption from, 4769a, 7064a.

**LONGHORN CAVERN STATE PARK**

Oil and gas leases, 6077o.

**LOUDSPEAKER**

Projecting indecent or offensive music, etc., on liquor licensee's premises, PC 666-51a.

**LOVE'S LOOKOUT STATE PARK**

Oil and gas leases, 6077o.

**LOWER NECHES VALLEY AUTHORITY**

Parks, foll. 8197 note.

**LOWER NUECES RIVER WATER SUPPLY DISTRICT**

Creation, powers, duties, etc., 8197f note.

**LUBBOCK COUNTY**

County court at law, 1970-340.

**LUXURY EXCISE TAX**

Additional tax, 7047f, § 1½.

Cosmetics, sale of new cosmetics, amount of additional tax, 7047f, § 1½.

Gross receipts, defined, 7047f, § 1½.

Payment of tax, only one payment of additional tax required, 7047f, § 1½.

Playing cards, additional tax, 7047f, § 1½.

Radios, sale of new radios, amount of additional tax, 7047f, § 1½.

Reports, additional taxes, 7047f, § 1½.

Retail sale, defined, 7047f, § 1½.

Television sets, 7047f, § 1½.

**LYNCHING**

Assembling of mob to commit assault and battery, lynching, prohibited, penalty, PC 1260a.

Civil liability of mob, PC 1260a.

Degrees of offense, PC 1260a.

District attorney, duties and powers, PC 1260a.

Mob defined, PC 1260a.

Provisions of law cumulative, PC 1260a.

**MACKENZIE STATE PARK**

Oil and gas leases, 6077o.

**MALT LIQUOR**

Definition, Liquor Control Act, PC 666-3a.

**MANAGERS**

Prison system, executed prisoner, embalming body, CCP 809.

**MANDAMUS**

Court of Civil Appeals, against, certification, compelling, (RCP) Rule 475.

Deposit for costs,

Court of Civil Appeals, (RCP) Rule 388-A. Supreme Court, (RCP) Rule 485.

Legislative Redistricting Board, mandamus to compel performance of duties, Const. art. III, § 28.

Lubbock County Court at Law, power to issue writs, 1970-340, § 16.

Supreme Court, Legislative Redistricting Board, jurisdiction to compel Board to perform duties, Const. art. III, § 28.

**MARINE INSURANCE COMPANIES**

Foreign companies,

Policies, actions on, 5068e, §§ 4-7.

Reinsurance, 4932.

Unauthorized to do business,

Agents, licensing bond and tax, 5068e, § 2.

Policies, regulation of placing, 5068e, § 1.

Policies,

Foreign companies unauthorized to do business, 5068e, § 1.

Liquidated demands, incorporation of statutory provision, 4929a.

**MARRIAGE**

Licenses,

Expiration, 4612a, § 10.

Premarital examination for syphilis, necessity, 4612a.

**MASSEURS**

Basic Science Act, exemption, 4590c, § 16; PC 742b.

**MATAGORDA COUNTY**

Water Control and Improvement District No. 1, validation of creation, board of directors, etc., foll. 8197f note.

**MEAT AND MEAT PRODUCTS**

Horse meat, sale or transportation, restrictions, PC 719e.

**MEDICAL ATTENDANCE AND TREATMENT**

Navigation district employees, 8235a, § 6.

Districts containing a municipality of 300,000, 8263j, § 3.

**MEDICAL BOARD**

Employees' Retirement System of Texas, 6228a, § 6.

**MEDICAL EXAMINATIONS**

State officers and employees applying for disability benefits, 6228a, § 5.

**MEMBER**

Defined, 6228a, § 1.

**MEMBERSHIP ANNUITY**

Defined, 6228a, § 1.

**MEMBERSHIP ANNUITY RESERVE**

Defined, 6228a, § 1.

**MEMBERSHIP SERVICE**

Defined, 6228a, § 1.

**MERCANTILE ESTABLISHMENT**

Licenses,

Additional fee, PC 1111d, § 5½.

State hospital fund, additional fees paid into, 3196b.

**MERIDIAN STATE PARK**

Oil and gas leases, 6077o.

**MEXIA STATE SCHOOL AND HOME**

Act governing inapplicable to schools for feeble-minded, 3263c, § 4.

Austin State School, transfer from, feeble-minded persons capable of profiting from educational program, 3263c, § 1.

Board of Control,

Admission of inmates, 3263c, § 2.

Training feeble-minded persons, 3263c, § 4.

Transfer from Austin State School feeble-minded persons capable of profiting from educational program, 3263c, § 1.

Custodial institution for care, maintenance and treatment of aged senile persons, 3263c, § 3.

Inmates,

Admission, power of Board of Control, 3263c, § 2.

Furloughs, 3263c, § 3.

Persons entitled to admission, 3263c, §§ 1, 2.

Legislative intent, 3263c, § 4.

Name, 3263c, § 1.

Eleemosynary institutions designation changed, 3174a.

State hospitals, transfer to home of feeble-minded or aged senile person, 3263c, § 1.

Superintendent, furloughs granted by, 3263c, § 3.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

Transfer of feeble-minded and aged persons from Austin State School and state hospitals, 3263c, § 1.

**MIDWIVES**

Prenatal examination for syphilis, 4445a.

Stillborn children, report on prenatal examination for syphilis, 4445a, § 3.

**MILAM COUNTY**

Game and fish, local and special acts, PC 978j note.

**MINERAL WELLS STATE PARK**

Oil and gas leases, 6077o.

**MINES AND MINERALS**

Commissioners courts, power to contract respecting on airport properties, 2351, subd. 18.

Leases,

Lands and housing facilities acquired by commissioners courts from United States, 2351, subd. 19.

Receiver, land subject to contingent future interest, 2320c.

**MINISTERS OF THE GOSPEL**

Ministration to the sick by prayer,

Basic Science Law exemption, 4590c, § 16; PC 742b.

**MINISTERS OF THE GOSPEL (Cont'd)**

Ministration to the sick by prayer (Cont'd)

Medical Practice Act, exemption, 4504.

Office, maintenance, 4590c, § 16; PC 742b.

Naturopathic Physicians Practice Act, exception, 4590d, §§ 13, 18.

Prayer, Ministration to the sick by prayer, ante.

**MISDEMEANORS**

Abandonment, hole or well, without filling or plugging, PC 1721.

Antifreeze regulations, 165-6, § 9.

Barbiturates, violation of law governing, PC 726b.

Bedding, 4476a, § 9.

Child, delinquency, contributing to, PC 534a.

Child welfare agencies, solicitation of funds, unauthorized person, 695c, § 8a.

Chiropractic act, violation of, 4512b, § 19.

Cisterns, open, PC 1721.

County clerk, failure to comply with county workmen's compensation law requirements, 8309c.

District clerks, failure to comply with county workmen's compensation law requirements, 8309c.

False personation, child welfare agency representatives, 695c, § 8a.

Foundation school program, violation of provisions, 2922-21, § 2.

Geological, etc., surveys, area within tidewater limits, violations, 5382b.

Herbicides, rules and regulations, violation, 135b-2, § 10.

Labor agent without license, 5221a-5, § 11.

Livestock Auction Commission Merchants, records of motor vehicles transporting livestock for sale, violation of law, 1287a.

Motor boat, operating while intoxicated, PC 1333A.

Motor vehicles, speeding and driving while intoxicated on beaches, PC 827f.

Premarital examination law, violation, 4612a, § 13.

Public school fraternities, sororities or secret societies, joining or soliciting membership, PC 301d.

Unlawful practice, healing art, PC 742c.

Wells, open, PC 1721.

**MOBS**

Defined, anti-lynching law, PC 1260a.

**MONUMENT HILL STATE PARK**

Oil and gas leases, 6077o.

State Parks Board, custody, 6067a.

**MOORE COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**MORTGAGES AND TRUST DEEDS**

Records, telephone cooperative corporations, 1528c, § 25.

Telephone cooperative corporations, 1528c, §§ 4, 23, 25, 31.

**MOSQUITO CONTROL DISTRICTS**

Creation, etc., in certain counties, 4477-2.

**MOTHER NEFF STATE PARK**

Oil and gas leases, 6077o.

**MOTIONS**

Affirmance, Court of Civil Appeals, deposit for costs, (RCP) Rule 388-A.

Court of Civil Appeals, against, certification, compelling, (RCP) Rule 475.

Delay in mail, effect, (RCP) Rule 5.

Leave to file, original proceeding, Court of Civil Appeals, (RCP) Rule 383.

Rehearing, (RCP) Rule 515.

Summary judgment, (RCP) Rule 166-A.

**MOTLEY COUNTY**

Wild life resources, regulation and conservation, PC 978n—1.

**MOTOR BOATS**

Operating while intoxicated, misdemeanor, PC 1333A.

**MOTOR CARRIERS**

Gross receipts tax, additional tax, 7066c.  
Occupation taxes, additional taxes, 7066c.

**MOTOR VEHICLE SALES TAX**

Affidavit stating consideration received, 7047k—1, § 5(a).  
Amount of additional tax, 7047k—1, § 1.  
Collection, 7047k—1, § 5.  
Credit sales, 7047k—1, § 3.  
Deductions in computing, 7047k—1, § 1.  
Definition, 7047k—1, § 2.  
Exchange of motor vehicles, 7047k—1, § 1.  
Federal sales tax deducted in computing, 7047k—1, § 1.  
License fees and taxes in addition to other license fees and taxes, 7047k—1, § 4.  
Motor vehicle, defined, 7047k—1, § 3.  
Offenses, operation of vehicle without paying tax, 7047k—1, § 7.  
Payment, 7047k—1, § 6.  
Use tax, 7047k—1, § 5.  
Receipt, 7047k—1, § 6.  
Registration of motor vehicle conditioned on payment of tax, 7047k—1, § 5.  
Retail sale, defined, 7047k—1, § 3.  
Sale, defined, 7047k—1, § 3.  
Seller, defined, exchange of vehicle, 7047k—1, § 1.  
Tax collectors, duties, 7047k—1, §§ 5, 5(a), 6.  
Vehicles purchased outside state and brought into state, use tax, 7047k—1, § 2.

**MOTOR VEHICLES**

Arrest for speeding on beaches, PC 827f.  
Bond, heavy trucks and equipment, 6701a.  
Chief Probation Officer and Assistant furnished automobiles, 5142a, § 1.  
Daytime defined, speed limit on beaches, PC 827f.  
Defined, 7047k—1, § 3.  
Disabled vehicle, length limit, exemption, PC 827a, § 3.  
Driver's license, revocation or suspension, Intoxicated, driving while, PC 827f.  
Speeding on beaches, PC 827f.  
Driving while intoxicated on beaches, suspension of license, PC 827f.  
Fees,  
Oversize vehicles, 6675a—8b.  
Fines and penalties,  
Oversize or overweight vehicles, operation of, PC 827a, § 2.  
Speeding on beaches, PC 827f.  
Harvesting of grain, etc., temporary registration, PC 827b.  
Licenses, motor vehicle sales tax, license fees and taxes in addition to license fees and taxes, 7047k—1, § 4.  
Misdemeanors, speeding on beaches, PC 827f.  
Oversize or overweight commodities, permit, PC 827a.  
Permits, heavy trucks and equipment, 6701a.  
Purchase of vehicles outside state and bringing into state, use tax on, 7047k—1, § 5.  
Registration,  
Fees,  
Oversize vehicles, 6675a—8b.  
Motor vehicle sales tax, payment as condition to registration, 7047k—1, § 5.  
Nonresidents, temporary permit for truck, truck-tractor, trailer, etc., PC 827b.  
Plates, temporary special insignia in lieu of, nonresident truckers, etc., PC 827b.  
Speed,  
Beach defined, PC 827f.  
Beaches, maximum rate, PC 827f.

**MOTOR VEHICLES (Cont'd)**

Trailers, regulation, 6701d, § 106.  
Use tax on vehicles purchased outside state, 7047k—1, § 2.  
Vehicle sales tax, vehicles purchased outside state brought into state, use tax, payment of, 7047k—1, § 5.

**MUNICIPAL CORPORATIONS**

Injunction, temporary, bond, (RCP) Rule 684.  
Water, Commissioners' Courts' power to sell water to, 2351, § 20.

**MUSIC MACHINE**

Projecting indecent or offensive music, etc., on liquor licensee's premises, PC 666—15a.

**MUTUAL ASSESSMENT LIFE, HEALTH AND ACCIDENT ASSOCIATIONS**

Foreign companies, gross receipts tax, 4769.

**MUTUAL ASSESSMENT LIFE INSURANCE COMPANIES**

Foreign companies, annual statement, gross receipts, 4769.

**NAMES**

Telephone cooperative corporations, 1528c, § 6.

**NARCOTICS**

Barbiturates, generally, this index.

**NATIONAL GUARD**

Injuries in service, 5845.  
Riots, injury while in service of state in case of, 5845.

**NATURAL RESOURCES**

Commissioners courts, power to contract respecting on airport properties, 2351, subd. 18.

**NATUROPATHIC**

Advertising, 4590d, §§ 13a, 16, 17.  
Basic sciences, certificate of proficiency required, 4590d, § 18b.  
Board of examiners,  
Basic Science Act, compliance with, 4590d, § 18a.  
Compensation, 4590d, § 7.  
Enforcement of act, 4590d, § 2.  
Organization, 4590d, § 1.  
Record, 4590d, § 6.  
Removal, 4590d, § 1.  
Rules and regulations, 4590d, § 1.  
Secretary, 4590d, § 11.  
Definitions, 4590d, § 18.  
Injunction against violations, 4590d, § 15.  
Licenses, 4590d, § 3 et seq.  
Annual re-registration, 4590d, § 11.  
Examination, 4590d, §§ 8, 10.  
Practice without, 4590d, § 5.  
Qualifications of applicant, 4590d, §§ 9, 10.  
Reciprocity, 4590d, § 3.  
Revocation, 4590d, § 10.  
Offenses and penalties, 4590d, §§ 13a, 14.

**NAVIGATION AND CANAL COMMISSIONERS**

Employees,  
Compensation, hospitalization and medical benefits included as, certain districts, 8263j, § 3.  
Retirement, disability and death compensation, certain districts, 8263j, § 1.  
Investment, retirement, disability and death compensation fund, 8263j, § 2.  
Promotion and development funds, control in districts of 300,000 or more, 8247e.  
Self-liquidating and supporting navigation districts,  
Term of office and election, 8263—e, § 18-a.  
Vacancies in office, 8263—e, § 18-a.

**NAVIGATION DISTRICTS**

Aransas County Navigation District No. 1, structure and powers, change, 8198 note.  
Compensation of officers, hospitalization and medical benefits included as, certain districts, 8263j, § 3.

**NAVIGATION DISTRICTS (Cont'd)**

Elections, validation of election of Port of Beaumont Navigation District, 8198 note.  
Eminent domain, 8263h.

Districts containing municipality of 300,000 or more, 8263k.

**Employees,**

Compensation, hospitalization and medical benefits included as, certain districts, 8263j, § 3.

Retirement, disability and death compensation, certain districts, 8263j, § 1.

Establishment, validation of creation of Port of Beaumont Navigation District, 8198 note.

Funds, promotion and development funds, districts containing city of 300,000 or more, 8247e.

**Lien,**

Crops, water for irrigation, 8263h, §§ 51, 52.

Supplies, services, fees, etc., 5500, § 2.

Port of Beaumont Navigation District of Jefferson County, 8198 note.

Validation of creation, resolutions, elections, etc., 8198 note.

Promotion and development funds, districts containing municipality of 300,000 or more, 8247e.

Taxation, validation of levy of tax by Port of Beaumont Navigation District, 8198 note.

Validation of creation, resolutions, elections, etc. of Port of Beaumont Navigation District, 8198 note.

**NEGROES**

State parks, separate facilities and accommodations for, 6070e.

State University for Negroes, generally, this index.

**NEPOTISM**

Exception from law prohibiting, PC 432.

**NEW MEXICO**

Pecos River Compacts, 7466f.

**NEW TRIAL**

Motion for, delay in mail, (RCP) Rule 5.

Time, enlargement, (RCP) Rule 5.

**NEWSPAPERS**

Citrus Commission reports, 118d, § 7.

**NONPROFIT CORPORATIONS**

See Telephone Cooperative Corporations, generally, this index.

**NONRESIDENTS**

Motor vehicles, registration, temporary harvest permits, PC 827b.

**NORTH TEXAS JUNIOR AGRICULTURAL COLLEGE**

Name changed to Arlington State College, 2620.

**NORTH TEXAS STATE COLLEGE**

Board of regents, creation, appointment, powers, duties, etc., 2651a.

Name changed from North Texas State Teachers College, 2651a.

Oath of office, regents, 2651a.

**NORTH TEXAS STATE TEACHERS COLLEGE**

Contract for furnishing water and other utility services by city, 2647e.

Name changed to North Texas State College, 2651a.

Water and other public utility services, contract for furnishing, rates, etc., 2647e.

**NOTICE**

Order, show cause, contempt, child support cases, (RCP) Rule 308—A.

Telephone cooperative corporations' meetings, 1528c, §§ 9, 12, 13, 18.

**NUECES COUNTY**

Bailiff, 199(105).

County court at law, 1970—339.

**NUECES COUNTY (Cont'd)**

Judicial district, 199(105).

Probation officer, 199(105).

**NURSES**

Basic Science Act, exemption, 4590c, § 16; PC 742—b.

Board of examiners of tuberculosis nurses, 4528b, §§ 1—3, 7.

Certificates, tuberculosis nurses, 4528b, §§ 4, 6, 7.

Examination, tuberculosis nurses, 4528b, §§ 4—6.

Exception, Basic Science Act, PC 742—b.

Fees, examination of tuberculosis nurses, 4528b, §§ 4, 5.

Labor agency law, exception, 5221a—5, § 2.

Private employment agency law, exception, 5221a—6, § 2.

Recording certificate, tuberculosis nurses, 4528b, § 6.

Secretary-treasurer of board of tuberculosis nurse examiners, 4528b, §§ 2, 3.

Tuberculosis nurses, 4528b.

**OATHS AND AFFIRMATIONS**

Administrator appointed by Texas Real Estate Commission, 6573a, § 5.

Assistant administrator, Liquor Control Act, PC 666—5a.

Board of regents, Lamar State College of Technology, 2637b.

Interpreter of Lubbock County Court at Law, 1970—340, § 26.

Judge of Lubbock County Court at Law, 1970—340, § 13.

Legislative council, authority to administer, 5429b, § 5.

Reporter of Lubbock County Court at Law, 1970—340, § 23.

Texas Real Estate Commission, power to administer, 6573a, § 5.

**OBEDIENCE**

Commutation of time for prisoner's obedience, 6184f.

**OBSCENITY**

Enticing or inviting child to place for purpose of proposing obscenity, PC 535c.

Indecent exposure to infant, PC 535c.

**OCCUPATION TAXES**

Labor agencies, 5221a—5, § 4.

**OCHILTREE COUNTY**

Wild life resources, regulation and conservation, PC 978n—1.

**OFFICERS**

Automobiles, mileage allowance, 6823.

Depositions, commission to take, (RCP) Rule 202.

Juvenile officers, this index.

Legal notices and financial statements, failure to publish, 6252—2.

Public, antifreeze regulations, excepted, 165—6, § 8.

**OFFICIAL COURT REPORTERS**

Appointment and qualification, 16th judicial district, 2326j.

**Compensation,**

Counties having two or more county courts at law and one or more county criminal courts, 2327c.

Sixteenth judicial district, 2326j.

**County courts,**

Counties having two or more county courts at law and one or more county criminal courts, 2327c.

Personnel Act as applicable to counties of 500,000 or more, 2372h, § 6.

Sixteenth judicial district, appointment, qualifications, compensation, etc., 2326j.

**OIL AND GAS**

Abandoned wells, *plugging* or *filling*, PC 1721.  
Commissioners courts, power to contract re-  
specting on airport properties, 2351, subd. 18.  
Conservation, co-operative development of na-  
tural gas, 6008, § 21.  
Definition of terms, 6008, § 2(k).  
Standard gas measurement law, 6066b, § 2.  
Drilling wells, cover, PC 1721.  
Leases and permits,  
Lands and housing facilities acquired by  
county from United States, 2351, subd. 19.  
Lands subject to contingent future interest,  
2320c.  
School and asylum lands,  
Forfeited rights,  
New lease, 5371.  
Reinstatement, 5370.  
Surface owner, reinstatement, 5371.  
State park lands, 6077o.

Measuring, standard gas measurement law,  
6066b.

Penalties, open well, PC 1721.

Pooling or unitization agreement, cooperative  
development, secondary recovery operations,  
etc., 6008b.

Servicing wells, organization of corporations  
for, 1302h.

Standard cubic foot of gas defined, 6008, § 2(k);  
7047b, § 2(12).

Standard Gas Measurement Law, *this index*.

**OIL GAS WELL**

Occupation tax of person furnishing services  
in operation of oil gas well, 7060b.

**OLD FORT PARKER STATE PARK**

Oil and gas leases, 6077o.

**OLDHAM COUNTY**

Wild life resources, regulation and conserva-  
tion, PC 978n-1.

**OPTOMETRISTS AND OPTOMETRY**

Basic Science Act, exception, 4590c, § 16; PC  
742b.

Exceptions, Basic Science Act, 4590c, § 16; PC  
742-b.

**ORANGE COUNTY**

Stock law election, 6954.

**ORCHESTRAS**

Projecting indecent or offensive music, etc., on  
liquor licensee's premises, PC 666-15a.

**ORDERS**

Citrus Commission, *this index*.

Interlocutory, appeals from, (RCP) Rule 385.

Show cause, contempt, child support cases,  
(RCP) Rule 308-A.

**ORDINANCES AND RESOLUTIONS**

Council, power to adopt, 1011.

Marshal, ordinance dispensing with office, trans-  
fer of duties to city police officer, etc., 999a.

Natural gas system, additional revenue bonds,  
authorized, etc., 1015h.

Officers, election or appointment of certain offi-  
cers, designation by ordinance, 977.

Validation of ordinance,

Annexation of territory and extension of  
boundaries, cities of 5,000 or less, 974c-3.

Ascertain municipal population, 976b.

Water supply contracts or leases with water,  
etc., districts, 1109e.

**ORPHAN ASYLUMS**

Tuition and other fees, state colleges, exemp-  
tion of orphans, 2654F.

**OSTEOPATHS**

Naturopathic Physicians Practice Act, excep-  
tion, 4590d, §§ 13, 18.

**PALMETTO STATE PARK**

Oil and gas leases, 6077o.

**PALO DURO CANYON STATE PARK**

Oil and gas leases, 6077o.

**PANHANDLE WATER CONSERVATION AU-  
THORITY**

Expansion, foll. 8197f.

**PANOLA COUNTY JUNIOR COLLEGE**

Appropriation, 2815j-2.

**PARDON AND PAROLE**

Meritorious conduct, 6184l.

**PARENT AND CHILD**

Support,

Child, investigation by Juvenile Officer of  
father's ability to support, 5142c, § 3.

**PARKS AND PLAYGROUNDS**

Generally, 6067-6081h.

Board for lease of state park lands, creation and  
duties, 6077o.

County parks,

Islands, counties on Gulf, 6079c.

Custody of certain parks, 6067a.

Davis Mountains State Park,

Oil and gas leases, 6077o.

Fannin State Park,

Oil and gas leases, 6077o.

Goose Island State Park,

Oil and gas leases, 6077o.

Independence State Park,

Oil and gas leases, 6077o.

Jim Hogg Memorial Park

Oil and gas leases, 6077o.

King's Memorial State Park, 6077l.

Oil and gas leases, 6077o.

Palo Duro Canyon State Park,

Oil and gas leases, 6077o.

Port Isabel Lighthouse, acquisition of title,  
maintenance, etc., by State Parks Board,  
6077l.

State park development fund, oil and gas roy-  
alties, 6077o.

State parks,

Leases, 6070e.

Segregation of negro and white races, 6070e.

State Parks Board,

Executive secretary, member Youth Devel-  
opment Council, 5143c, § 4.

Segregation of races, duties relating to,  
6070e.

Stephen F. Austin State Park,

Oil and gas leases, 6077o.

**PARMER COUNTY**

Wild life resources, regulation and conserva-  
tion, PC 978n-1.

**PAROCHIAL SCHOOLS**

Foundation school program, interpretation of not  
inimical to parochial schools, 2922-17.

**PARTIES**

Adverse, depositions, (RCP) Rule 188.

Plaintiffs, trade-name, doing business under,  
denial, verification, (RCP) Rule 93.

**PARTITION**

Sale, propefety incapable of division, (RCP) Rule  
770.

**PEACE OFFICERS**

Arrest, automobiles speeding on beaches, PC  
827f.

**PECOS RIVER COMMISSION**

Creation, powers, duties, etc., 7466f.

**PECOS RIVER COMPACT**

Text of Compact, 7466f.

**PENITENTIARIES**

Generally, 6166a-6203g.

Classification Committee, 6184l.

Disciplinary Committee, 6184l.

**PENITENTIARIES (Cont'd)**

Manager, commutation of time for good conduct, etc., 6184f.  
 Veterans County Service Officer to have access to records, 5798a-2.

**PENSIONS**

Cities, towns or villages in general, 6243h.  
 Board, 6243h-1.  
 Director, 6243h-1.  
 Expense fund, 6243h-1.  
 Expenses of system, loan to defray, 6243h-1.  
 Fund, creation, 6243h, § 1.  
 Loan to system to pay expenses, 6243h-1.  
 Management of system, 6243h, § 1.  
 Name of system, 6243h, § 1.  
 Note of municipal retirement system to, Secure loan, 6243h-1.  
 Notice of election not to become member of system, 6243h, § 3.  
 Organizational expenses of Texas municipal retirement system, 6243h-1.  
 Repayment,  
 Loan to defray organizational expenses, 6243h-1.  
 Trustees, 6243h-1,  
 Corporations, 1327a.  
 County retirement funds, death of member, disposition of contributions, 6228d.  
 Firemen's Relief Pension Fund,  
 Age of retirement and amount of pension, 6243e, § 6.  
 Creation of special fund, 6243e, § 1.  
 State treasurer,  
 Custodian, 6243e, §§ 1, 2.  
 Judges, retirement, 6228b.  
 Police, Fort Worth pension system, 6243i.  
 Retirement, disability and death compensation fund,  
 Navigation districts containing municipality of 300,000, 8263j.  
 Veterans, Texas Revolution, 6227a.

**PERMANENT IMPROVEMENT FUND**

County office buildings, additional jail facilities, etc., payment for from fund, 2372j.  
 Exhibition buildings for agricultural, horticultural, etc., products, constructed or acquired by county commissioners, 2372d-2.

**PERSONAL INJURY**

Defined,  
 Workmen's Compensation Law for county employees, 8309c.

**PERSON**

Defined, Telephone Cooperative Act, 1528c, § 2.

**PHARMACISTS AND PHARMACY**

Barbiturates, sale without prescription unlawful, PC 726b.  
 Basic Sciences, this index.  
 Prescriptions, barbiturates, sale without prescription unlawful, PC 726b.

**PHONOGRAPHS**

Corporations, creation for purpose of owning, selling or hiring, 1302, par. 108.  
 Projecting indecent or offensive music, etc., on liquor licensee's premises, PC 666-51a.

**PHYSICIANS AND SURGEONS**

Basic Sciences, this index.  
 Chiropractic License Act, excepted from, 4512b, § 13.  
 Consulting, exceptions, Basic Science Act, 4590c, § 16; PC 742-b.  
 Exemptions, Naturopathic Practice Act, 4590d, §§ 5, 13.  
 Government, exception, Basic Science Act, 4590c, § 16; PC 742b.  
 Marine hospital service, exempt from Basic Science Act, 4590c, § 16; PC 742b.  
 Military, exempt from Basic Science Act, 4590c, § 16; PC 742-b.

**PHYSICIANS AND SURGEONS (Cont'd)**

Naturopathic, generally, this index.  
 Nonresident, consulting, exempt from Basic Science Act, 4590c, § 16; PC 742-b.  
 Obstetricians, prenatal examination for syphilis, 4445a.  
 Penalties, prenatal examination for syphilis, failure to give, 4445a, § 7.  
 Premarital examinations, 4612a.  
 Public health, exempt from Basic Science Act, 4590c, § 16; PC 742-b.  
 Reports, still-births, blood test for syphilis during pregnancy, 4445a, § 3.  
 Syphilis,  
 Prenatal test required, 4445a, § 1.  
 Standard serologic test, 4612a.  
 Unlawful practice, healing art, PC 742-c.

**PIANOS**

Projecting indecent or offensive music, etc., on liquor licensee's premises, PC 666-51a.

**PILOTS**

Lien, 5500.

**PISTOLS**

Carrying, felon, PC 489c.  
 Definition, PC 489c.

**PLAINTIFF**

See Parties.

**PLANT DISEASES AND PESTS**

Vegetable plant certification. Vegetables, this index.

**PLANTS**

Vegetable plant certification. Vegetables, this index.

**PLEA OF PRIVILEGE**

See Venue this index.

**PLEADINGS**

Answer, contents, (RCP) Rule 84.  
 Child support cases, contempt, (RCP) Rule 308-A.  
 Defensive pleas, order of hearing, (RCP) Rule 84.  
 Petition, original proceeding, Court of Civil Appeals, (RCP) Rule 383.  
 Request for admissions,  
 Attorney, (RCP) Rule 169.  
 Contents, (RCP) Rule 169.  
 Reply, filing, (RCP) Rule 169.  
 Verification, this index.

**PLEDGES**

Stock certificates, additional transfer tax, 7047m, § 1½.  
 Telephone cooperative corporations, 1528c, §§ 4, 25.

**POLICE**

Marshal, office abolished and duties transferred by ordinance to police officer, appointment, 999a.

**POLITICAL PARTIES**

Communist, excluded from ballot, 2978b.  
 Revolutionary, excluded from ballot, 2978b.

**POLITICAL SUBDIVISIONS**

United States Bonds payroll deductions, 6252-3.

**PORT OF BEAUMONT NAVIGATION DISTRICT OF JEFFERSON COUNTY**

Creation, powers, duties, etc., 8198 note.

**PORTS**

Liens, supplies, services, fees, etc., 5500, § 2.

**POSSUM KINGDOM STATE PARK**

Oil and gas leases, 6077o.

**POTATOES**

Plant certification, Vegetables, this index.

**POTTER COUNTY**

Domestic relations court, creation, jurisdiction, etc., 2338—3.  
Wild life resources, regulation and conservation, PC 978n—1.

**POULTRY IMPROVEMENT BOARD**

State agency, co-operation with United States Department of Agriculture, 165—7.

**PRAYERS**

Ministration to sick or suffering, Basic Science Law, exception, 4590c, § 16; PC 742b.

**PRECINCT OFFICERS**

Compensation,  
Increase, powers of commissioners courts, 3912g.  
Law enforcement officers, compensation on salary basis, Const. art. XVI, § 61.

**PREMIUMS**

Tax on premiums, gross premiums, taxes.  
Gross Premium Taxes, generally, this index.

**PRESCRIPTIONS**

Barbiturates, sale without prescription unlawful, PC 726b.

**PRIESTS**

See Ministers of the Gospel, generally, this index.

**PRIMARY ELECTIONS**

**Ballots,**  
Deposit of, 3109.  
Form, numbering and secrecy, 3153a.  
Numbering, 3109, 3153a.  
Signature of voter, 3109.  
Stubs, 3109.  
**Candidates, loyalty affidavits, 2978a.**  
**County clerks, returns, duties respecting, parties of over 100,000, 3123.**  
**County executive committee, second primary, district and state candidates, parties of 100-000 and over, 3106.**  
**Fraud, precaution, 3122.**  
**Returns, county clerks, returns made to, parties of 100,000 and over, 3123.**  
**Stub box, 3012.**  
**Voting machines, exception, numbered stubs on ballot, 2997d.**

**PRIOR SERVICE**

Defined, 6228a, § 1.

**PRISON BOARD**

Sale of prison produced products, contracts with Board of Control, 6203c, § 9.

**PRISON SYSTEM**

General manager, authorized to dispose of surplus agricultural products, etc., not manufactured for sale, 6203c, § 9.

**PRISONS**

Dead bodies, executed prisoners, disposition, CCP 809.  
Designing buildings, exception from statute, 681.

**PRIVATE EMPLOYMENT AGENTS**

See Employment Agents, this index.

**PROBATE AND PROBATE COURTS**

Citation, service, validation, 2286a.  
County court of, Willacy county, 199(107), § 5a.  
Jurisdiction,  
County courts, Willacy county, 199(107), § 5a.  
Harris County, 1970—110a.  
Lubbock County Court at Law, 1970—340, § 6.  
Lubbock County Court at Law, 1970—340, § 6.  
Notice of proceedings, validation, 2286a.  
Process in probate proceedings, validation of citation and notice, 2286a.  
Validation, service of citation or process, 2286a.

**PROBATION OFFICERS**

Assistants in counties of 350,000, 5142a, § 1.  
Automobiles, 5142b, § 17.  
Chief and assistant officers,  
Counties of 350,000, 5142a, § 1.  
Employment, assisting probationer to obtain, 199(105).  
Juvenile correctional institutions, superintendent, appointment and removal, 5142b, § 7.  
Nueces County, 199(105).  
Salaries,  
Counties of 190,000 to 350,000, 5142b.

**PROCESS**

Citrus Commission, 118d, § 6.  
Published summons, default judgment prohibited, (RCP) Rule 812.  
Service,  
Citrus Commission, 118d, § 6.

**PROHIBITION**

Deposit for costs,  
Court of Civil Appeals, (RCP) Rule 388—A.  
Supreme Court (RCP) Rule 485.

**PROSTITUTION**

Prostitutes,  
Medical examination of convicted prostitutes; quarantine, 4445, § 3.

**PUBLIC ADDRESS SYSTEM**

Projecting indecent or offensive music, etc., on liquor licensee's premises, PC 666—51a.

**PUBLIC ASSISTANCE**

Guardian, appointment to enable person to receive, fees or costs, 4123a—1.

**PUBLIC LANDS**

Commissioner of general land office,  
Abandoned river beds, title, adjacent landowners, 7467b.  
Board for lease of state park lands, member, 6077o.  
Legislative Redistricting Board, member of, Const. art. III, § 28.  
Oil and gas pooling agreement, secondary recovery operations, etc., 6008b.  
Permits, geological, etc., surveys for oil and gas within tidewater limits, 5382b.  
Rules and regulations, geological, etc., surveys, area within tidewater limits, 5382b.  
Deposit, permit, geological, geophysical, etc., surveys, area within tidewater limits, 5382b.  
General land office,  
Abstracts of title to state park lands open to oil and gas lessees, 6077o.

**Oil and gas,**

Lease,  
State park lands, 6077o.  
Permits,  
Geological and other surveys within tidewater limits, 5382b.  
Penalty, violating law respecting permits for geological, geophysical, etc., surveys, 5382b.  
School and asylum lands,  
Relinquishment of permit, 5370.  
Royalties, 5371.  
Surface owner, reinstatement, 5371.  
**School and asylum lands,**  
Forfeiture, reinstatement, Fisher County, 5326h.  
Forfeitures set aside, 5326i.  
Reinstatement of original purchases after setting aside forfeiture, 5326i.  
State University for Negroes, building site, 2643d, § 3.

**PUBLIC SAFETY DIRECTOR**

Member, Youth Development Council, 5143c, § 4.



**PUBLIC UTILITIES**

Life insurance companies, investment in,  
 Debentures, etc., 4725, § 6.  
 Preferred stock, 4725, § 7.  
 Occupation taxes, additional tax, 7060½.

**QUALIFIED APPLICANTS**

Defined, 2643b, § 12.

**QUORUM**

Boards,

Legislative Redistricting Board, Const. art. III, § 28.

Citrus Commission, 118d, § 5.

Commissioners, citrus commissioners, 118d, § 5.

Cotton Research Committee, 165-4b.

Legislative council, 5429b.

Youth Development Council, 5143c, § 5.

**RADIO**

Advertisement of alcoholic beverages, PC 667-24A.

Projecting indecent or offensive music, etc., on liquor licensee's premises, PC 666-51a.

**RAILROAD COMMISSION**

Oil and gas,

Pooling agreements, secondary recovery operations, etc., 6008b.

Standard gas measurement law, duties, 6066b, § 4a.

**RAILROADS**

Meetings, renewal of corporate existence, 6268.

**RANDALL COUNTY**

Wild life resources, regulation and conservation, PC 978n-1.

**REAL ESTATE DEALERS**

Administration of act by Texas Real Estate Commission, 6573a, § 5.

Administrator,

Application for license filed with, 6573a, § 6.

Appointment by commission, powers, compensation, etc., 6573a, § 5.

Appeal to district court from decision cancelling license, 6573a, § 11b.

Bond, administrator to furnish, 6573a, § 5.

Commission. Texas Real Estate Commission, post.

Delegation of authority by commission or administrator, 6573a, § 5.

Executive secretary, Texas Real Estate Commission, 6573a, § 5.

Fees and assessments, license, 6573a, § 16.

Fiduciary agents, statute inapplicable, 6573a, § 21.

Injunction, action against violators, 6573a, § 21.  
 Investigation as to violations, powers of commission, 6573a, § 5.

License,

Application, additional information required by commission, 6573a, § 8.

Cancellation, grounds, 6573a, §§ 11a, 11b.

Granting by commission, 6573a, § 9.

Hearing on charges to cancel license, 6573a, § 11b.

Minutes, entry in, delegation of authority by commission or administrator, 6573a, § 5.

Notice to Commission of change of employment of salesmen, 6573a, § 9.

Oath of office, administrator, 6573a, § 5.

Oaths and affirmations, power of Commission to administer, 6573a, § 5.

Process, service on administrator as service on commission, 6573a, § 5.

Records, administrator as manager and custodian, etc., 6573a, § 5.

Summons, authority of Commission to issue, 6573a, § 14.

Texas Real Estate Commission,

Copies of instruments filed with, admissibility in evidence, 6573a, § 19.

**REAL ESTATE DEALERS (Cont'd)**

Texas Real Estate Commission (Cont'd)

Creation, powers and duties, compensation, etc., 6573a, § 5.

Fees, collection, disposition, 6573a, § 16.

Investigation of actions of salesmen or dealer, 6573, § 11.

Notice of refusal to grant license, 6573a, § 10.

Payment of moneys into state treasury, etc., 6573a, § 18.

Petition against by party aggrieved by decision of, 6573a, § 15.

Salesmen, notice of change of employment, etc., 6573a, § 9.

Subpoenas, authority to issue, 6573a, § 14.

Trustees, statute relating to inapplicable, 6573a, § 21.

Witnesses, examination by Commission, 6573a, §§ 5, 14.

**REASSIGNMENT**

Retired Judges and Commissioners, legislative power to provide for, Const. art. V, § 1-a.

**RECEIPT**

Motor vehicle sales tax receipt, 7047k-1, § 6.

**RECEIVERS**

Oil, gas and mineral lands, leasing lands for development subject to contingent future interest, 2320c.

**RECIPROCAL INSURANCE**

Occupation taxes, additional tax, 7064½.

**RECIPROCITY**

Basic science certificates, 4590c, § 8.

Naturopathic licenses, 4590d, § 3.

**RECLAMATION DISTRICTS**

Approved plan, definition, 7467b.

**RECORDS**

Articles of consolidation of telephone cooperative corporations, 1528c, § 20.

Articles of incorporation of telephone cooperative corporation, 1528c, § 7.

Certificate of dissolution of telephone cooperative corporation, 1528c, § 21.

Community property, instrument partitioning or exchanging property between spouses, Const. art. XVI, § 15.

Evidence,

Citrus Commission, 118d, § 5.

Examination,

Legislative council, 5429b, § 5.

Juvenile officers, 5142c, §§ 3, 6.

Tuberculosis nurse's certificate, 4528b, § 6.

**RED RIVER**

Interstate Compact, generally, this index.

**REDEMPTION**

Cigarette tax stamp, 7047c-1, § 3.

**REDISTRICTING BOARD**

Legislative Redistricting Board, Const. art. III, § 28.

**REFUGIO COUNTY**

County judge, stenographer or clerk, 1934a-14.

**REFUNDING BONDS**

Schools and School districts,

Interest, 2789.

**REGENTS**

Lamar State College of Technology, generally, this index.

**REGULAR INTEREST**

Defined, 6228a, § 1.

**REHEARING**

Motion for, delay in mail, (RCP) Rule 5.

**REINSURANCE**

Fire and marine companies, foreign, 4932.  
 Foreign companies, fire, marine or inland company, 4932.  
 Joint reinsurance,  
   Examinations, 4698b, § 3.  
   Regulation, 4698b, § 1.  
 Marine insurance, foreign companies, 4932.

**RELIGIOUS CORPORATIONS**

Securities Act, exemption, 600a, § 3.

**RELIGIOUS SOCIETIES AS INSTITUTIONS**

Ministers of the Gospel, generally, this index.  
 Solicitation of funds, child welfare purposes, 695c, § 8a.

**RENT**

Control, housing emergency, 1269f—1.

**REPAIRS**

Liquified petroleum gas equipment, 6053, § 6.  
 Employment of qualified persons, 6053, § 8.

**REPORTS**

Juvenile officers, 5142c, §§ 3, 7.

**RESERVOIRS**

Pecos River Compact authorizing construction, 7466f.

**RETIREMENT**

Defined, 6228a, § 1.  
 Judges and Commissioners, legislative power to provide for, Const. art. V, § 1-a.

**RETIREMENT, DISABILITY AND DEATH COMPENSATION FUND**

Authorized navigation districts, districts containing municipality of 300,000, 8263j.

**RETIREMENT SYSTEM**

Defined, 2922—1, § 1; 6228a, § 1.

**REVENUE BONDS**

Retirement. Cities, Towns and Villages, this index.

**REVOLVER**

Definition, PC 489c.

**REWARD**

Prisoners for good conduct, 6184f.

**RIGHT OF WAY**

Power lines, roads and highways, 1436a.

**RIVER AUTHORITIES**

Power lines, maintenance along roads and highways, 1436a.

**RIVERS**

Interstate Compact, generally, this index.  
 Waters and Water Courses, generally, this index.

**ROADS**

Bond,  
   Heavy trucks and equipment, 6701a.  
   Oversize or overweight commodities, transportation, PC 827a.  
 Bond issues,  
   County and district,  
     Farm-to-market and lateral roads, 7048a, § 10.  
 Districts,  
   Bonds, investment of teachers retirement funds in, 2922—1.  
 Farm-to-market, ad valorem tax, 7048a.  
   Election, 7048a, §§ 7-9.  
 Lateral, ad valorem tax, 7048a.  
   Election, 7048a, §§ 7-9.  
 Permits, oversize or overweight commodities, PC 827a.  
 Precincts, bonds, investment of teachers retirement funds in, 2922—1.  
 State Highway Commission,  
   Chairman, member of state board of trustees, 6228a, § 6.  
   Tex.St.Supp. '50—56

**ROADS (Cont'd)**

State Highway Department,  
 Agricultural and mechanical college system, reimbursement for services and research, 2615e.  
 Farm-to-market road fund, transfer of funds to, 7083a.  
 Telephone cooperative corporation's right to construct lines along, 1528c, § 4.

**ROBERTS COUNTY**

Wild life resources, regulation and conservation, PC 978n—1.

**ROBINSON STATE PARK**

Oil and gas leases, 6077o.

**ROUGH FISH**

Defined, 4050c, § 6.

**RULES AND REGULATIONS**

Citrus Commission, 118d.

**RURAL AREA**

Defined, 1528c, § 2.

**RURAL CREDIT UNIONS**

Advisory commission, creation, membership, appointment, powers and duties, etc., 2484b.

Banking Commissioner,  
 Advisory commission, 2484b.

Credit committee,  
 Approval of, 2471.  
 Election by directors, 2471.  
 Loans to members, conditions, 2477.

Directors,  
 Credit committee, election by directors, 2471.  
 Loans to, conditions, 2477.

Loans,  
 Approval by credit committee, loans to directors or committee members, 2477.

Directors and members of committees, conditions, 2477.

Meetings, advisory commission, 2484b.

Officers, duties, 2470.

**RURAL TELEPHONE SERVICE**

See, Telephone Cooperative Corporations, generally, this index.

**RUSK STATE HOSPITAL**

Aged feeble-minded, Board of Control authorized to establish division for treatment of, 3263c, § 5.

Name changed, 3174a.  
 Texas State Hospitals and Special Schools as including, 3174b, § 3.

**SABINE COUNTY**

Stock law election, 695d.

**SABINE RIVER**

See Interstate Compact, generally, this index.

**SABINE RIVER AUTHORITY**

Creation, powers, duties, etc., 8197f note.

**SALARIES AND COMPENSATION**

Advisory commission, rural credit unions, 2484b.  
 Assignment clerks, 37th, 4th, 57th and 73rd district courts, 2093e.

Assistant,  
 Probation Officers in counties of 350,000, 5142a, § 1.

Assistants or deputies, counties of 13,000 on Mexican border, 331f.

Bailiffs,  
 Appointed by district judges in counties having nine or more district courts, CCP 367g.

Counties having nine or more district courts, CCP 367g.

Nueces County, 199(105).

Chief Probation Officers in counties of 350,000, 5142a, § 1.

Child Placing Agency, this index.

County auditors, counties of 33,200 to 33,600, 1645a—5.

**SALARIES AND COMPENSATION (Cont'd)**  
 County Judge as Juvenile Board member, 5139.  
 County Juvenile Board members, 5139.  
 Criminal district attorney, Jefferson county, CCP 52—160b.  
 Criminal District Court Judges serving as Juvenile Board members, 5139.  
 Directors of telephone cooperative corporations, 1528c, § 14.  
 District attorneys, 3886f.  
 District Court Judges,  
   Juvenile Board members in certain counties, 5139.  
   Services concerning Juvenile Officers not counted as fees, 5142c, § 8.  
   Services relating to juvenile officers, 5142c, § 2.  
 Interpreters,  
   District courts in counties bordering on International Boundary, 3737d.  
   Lubbock County Court at Law, 1970—340, § 26.  
 Interstate Compact Commissioner, this index.  
 Judge,  
   Domestic Relations Court of Potter County, 2338—3.  
   Lubbock County Court at Law, 1970—340, § 21.  
 Justices of the Supreme Court and other judges, 6819a—6.  
 Juvenile Board members in certain counties, 5139.  
 Juvenile officers, 5142, 5142c, § 1.  
 Mosquito control districts, advisory commission, 4477—2.  
 Pecos River Commissioner, 7466f.  
 Probation officers,  
   Counties of 190,000 to 350,000, 5142b.  
   Nueces County, 199(105).  
 Reporter of Lubbock County Court at Law, 1970—340, § 23.  
 Seasonal employees employed by district clerks, counties of 30,400 to 31,150, 3903e.  
 Special judge of Lubbock County Court at Law, 1970—340, §§ 14, 15.  
 State board of trustees, 6228a, §§ 6, 7.  
 State officers and employees, salaries fixed by appropriation bill, 6824 note.  
 Veterans County Service Officer and assistant, 5798a—2.

**SALES**  
 Antifreeze, 165—6, § 7.  
 Herbicides, this index.  
 Liquefied petroleum gas, 6053, § 6.

**SAMPLES**  
 Distilled spirits, testing by Liquor Control Board, PC 666—56.

**SAN ANTONIO RIVER**  
 Flood control, Note foll. 8197f.

**SAN ANTONIO STATE HOSPITAL**  
 Aged feeble-minded, Board of Control authorized to establish division for treatment of, 3263c, § 5.  
 Name changed, 3174a.  
 Texas State Hospitals and Special Schools as including, 3174b, § 3.

**SAN AUGUSTINE COUNTY**  
 Stock law election, 6954.

**SAN JOSE MISSION STATE PARK**  
 Oil and gas leases, 6077o.

**SAVINGS AND LOAN ASSOCIATIONS**  
 Investments, bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf, 6795b—1, § 7b.

**SAVINGS BANKS**  
 Investments, bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf, 6795b—1, § 7b.

**SCHOOL BUSES**

Foundation school program, purchase by purchasing division, board of control, 634(B).

**SCHOOL FOR CEREBRAL PALSID**

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**SCHOOL OF MINES AND METALLURGY**

Name changed to "Texas Western College of the University of Texas", 2633a.

**SCHOOLS AND SCHOOL DISTRICTS**

Abolition, validation, 2815g—39.

Annexation, 2803b.

District or territory, election, assumption of indebtedness, tax levy, 2805a.

Districts, validation, 2815g—39, 2815g—43, § 1.

Territory, validation, 2815g—40.

**Appeals,**

Commissioner of Education, 2654—3, 2654—7.

State Board of Education, from Commissioner of Education, 2654—3.

**Bonds,****Elections,**

Validation, 2815g—32, 2815g—39, 2815g—40, 2815g—41.

**Refunding,**

Interest refunded, 2789.

Validation, 2815g—39, 2815g—40, 2815g—43, § 1.

**Boundaries,**

Validation, 2815g—39, 2815g—40, 2815g—41, 2815g—43, § 1.

**Central education agency,**

Commissioner of Education, executive officer, 2654—5, § 8.

Establishment, functions, 2654—1, § 1.

Federal agencies, agreements and contract with, 2654—1, § 3.

State Department of Education, post.

Change of type of district, validation, 2815—39.  
 Commissioner of Education,

Advisory commissions, 2654—7, § 2.

Appeals, ante.

Bond, 2654—5, § 6.

Consolidation, restriction of power, 2654—7, § 5.

Executive officer, State Board of Education, 2654—3.

Foundation school program, determination of amount chargeable to school districts for, 2922—16, § 5.

Member, Youth Development Council, 5143c, § 4.

Powers and duties, 2654—5, §§ 3-5, 8.

State Superintendent of Public Instruction, exercise of, 2654—5, § 1.

Removal, 2654—5, § 1.

Rules and regulations, foundation school program, 2922—20.

Selection, 2654—5, § 1.

State Board of Education, executive officer and secretary, 2654—3, 2654—5, § 3.

Textbook committee, nominations, 2654—4, §§ 2, 3.

Textbooks, 2654—4, § 5.

Vacancy, 2654—5, § 7.

**Common school districts,**

Abolition, validation, 2815g—39.

Annexation, 2803b.

Validation, 2815g—32, 2815g—33, 2815g—39.

**Bonds,**

Validation, 2815g—39.

**County line districts,**

Tax rate, 2815g—43, § 2.

Validation, 2815g—43, § 1.

Detaching territory from one district and attaching to another, validation, 2815g—39.

**Election,**

Validation, 2815g—39.

**SCHOOLS AND SCHOOL DISTRICTS (Cont'd)**

Common school districts (Cont'd)

Taxes,  
Elections,  
Validation, 2815g-39.  
Validation, 2815-39.

Validation, 2815-39.  
Gymnasias, stadia, recreation facilities,  
construction and financing, 2802e-1, §  
9.  
Validation, 2815g-43, § 1.

Consolidation,  
Common school districts,  
Bonds, validation, 2815g-32, 2815g-34,  
2815g-39.  
Elections,  
Assumption of indebtedness and tax  
levies to pay, 2805a.  
Validation, 2815g-2, 2815g-32, 2815g-  
34, 2815g-39.  
Independent districts and rural high  
school districts, validation, 2815g-42.  
Tax rate, 2815g-43, § 2.

Taxes,  
Validation, 2815g-32, 2815g-34, 2815g-  
39.  
Validation, 2815g-39, 2815g-43, § 1.  
With independent districts, validation,  
2806d.

County line school districts, districts, valida-  
tion of acts of, 2815g-43, § 1.  
General laws govern, 2654-7, § 5.

Independent districts,  
Common school districts, 2806d.  
Common school districts and rural high  
school districts, 2815g-42.  
Division of district containing more than  
twelve original school districts, 2922f  
(3).  
Tax rate, 2815g-43, § 2.  
Trustees, 2922f(3).  
Trustees of larger district as trustees of  
consolidated district, 2806e.  
Validation of acts, 2806c, 2815g-35, 2815g-  
39, 2815g-43, § 1.

Rural high school districts, common school  
districts and independent districts, valida-  
tion, 2815g-42.  
Validation, 2806c, 2815g-34, 2815g-39, 2815g-  
40, 2815g-43, § 1.

Counties school trustees, validation of acts,  
2815g-43, § 1.

County line districts,  
Annexation, validation, 2815g-32, 2815g-39.  
Bonds, validation, 2815g-32, 2815g-34, 2815g-  
39.  
Consolidated common school districts, valida-  
tion, 2815g-39.  
Consolidated independent school districts,  
validation, 2815g-39.

Consolidation,  
Election, validation, etc., 2815-2.  
Validation of organization, etc., 2815g-  
39.  
Creation, validation, 2815g-39.  
Election to change administrative jurisdic-  
tion, counties of 140 to 186 scholastics,  
2744a-1.  
Elections, validation, 2815g-30, § 2; 2815g-  
32, 2815g-34, 2815g-39.  
Independent school districts,  
Tax rate, 2815g-43, § 2.  
Validation, 2815g-39, 2815g-43, § 1.

Rural high school districts, validation, 2815g-  
39.  
Tax rate, 2815g-43, § 2.

Taxes,  
Validation, 2815g-39.  
Validation, 2815g-43, § 1.

County line independent school districts,  
Tax rate, 2815g-43, § 2.  
Validation, 2815g-43, § 1.

**SCHOOLS AND SCHOOL DISTRICTS (Cont'd)**

County line rural high school districts,  
Tax rate, 2815g-43, § 2.  
Validation of organization, etc., 2815g-43,  
§ 1.

County school boards, transportation of pupils,  
Foundation School Program Act, 2922-15, § 2.

County school trustees,  
Validation of acts, 2815g-32, 2815g-34, 2815g-  
39, 2815g-40, 2815g-41.

County superintendent of public instruction,  
Abolition of office, 2688.  
Counties of less than 28,000, 2688c.  
Compensation and expenses,  
Office and traveling expenses, 2700.  
Transportation of pupils, Foundation School  
Program Act, 2922-15, § 2.

County unit system,  
County-wide maintenance tax, 2744e-6.

Definitions,  
Teachers retirement act, 2922-1, § 1.

Detachment of territory, validation, 2815g-39.

Dormant school within foundation school pro-  
gram defined, 2922-18.

Elections,  
Assumption of indebtedness, extension of  
boundaries or consolidation, 2805a.  
Counties of 500,000 or more, date of election,  
2745b.  
County line districts of 140 to 186 scholastics,  
change of administrative jurisdiction, 2744a  
-1.  
County-wide equalization fund, 2744e-5.  
County-wide maintenance tax, counties hav-  
ing not over four persons per square mile,  
etc., 2744e-6.  
Maintenance tax, validation, 2815g-40.  
State Board of Education, 2654-2, §§ 2-7.  
Corrupt practices, 2654-2, § 10.  
Validation, 2815g-39, 2815g-40, 2815g-41,  
2815g-43, § 1.  
Consolidation,  
Election for, 2815-2.

Extended municipal school districts,  
Election,  
Separation from municipal control,  
Validation, 2815g-39.  
Validation, 2815g-43, § 1.

Federal funds. School funds, post.

Financial reports, failure to publish, penalty,  
6252-2.

Fines and penalties, elections, corrupt practices,  
State Board of Education, 2654-2, § 10.

Foundation school fund. School funds, post.

Foundation School Program, generally, this in-  
dex.

High schools,  
State orphanage graduates, exemption from  
state owned college tuition, 2654F.

Independent districts,  
Abolition, validation, 2815g-39.  
Annexation,  
Validation, 2815g-32, 2815g-39, 2815g-  
40.

Bonds,  
Assumption of bonds of rural high school  
district converted into independent dis-  
trict, 2922f(4), § 4.  
Districts having city of 100,000, 2788a.  
Elections, 2784e.  
Districts having a city of 100,000,  
2788a.  
Validation, 2789c, § 4; 2815g-32,  
2815g-37, 2815g-39, 2815g-40.  
Validation, 2815g-39.

Boundaries, validation, 2815g-41.

Borrowing money, counties of 30,400 to 31,-  
150, 2790m.

## SCHOOLS AND SCHOOL DISTRICTS (Cont'd)

## Independent districts (Cont'd)

## Consolidation,

Election, validation, etc., 2815-2.

Resulting from, 2815g-42.

Validation, 2806c, 2815g-30, 2815g-35, 2815g-39, 2815g-40.

## Elections,

Maintenance and bond tax, 2790l.

Rural high school districts, conversion into independent district, 2922l(4), § 1.  
Trustees, cities of 75,000 to 175,000, 2777d.

Validation, 2815g-30, § 3; 2815g-31 to 2815g-34, 2815g-37, 2815g-39, 2815g-40, 2815g-41.

## Incorporation,

Rural high school districts, conversion into independent districts, 2922l(4), § 1.

Validation, 2815g-40.

Indebtedness, assumption of indebtedness of rural high school district converted into independent district, 2922l(4), § 4.

Interest on warrants issued by districts in counties of more than 18,975 and less than 19,025, 2790d-8.

Junior college districts with same boundary as independent school districts, 2815s.

Property rights of rural high school district converted into independent district, 2922l(4), § 3.

Repealer, rural high school district converted into independent district, 2922l(4), § 5.

Rural high school districts, conversion into independent district, 2922l(4).

Sinking fund, warrants issued by districts in counties of more than 18,975 and less than 19,025, 2790d-8.

Tax rate, 2815g-43, § 2.

Taxes, 2784e; 2792b, 2815g-34, § 2.

## Election,

Districts redefined to include territory in more than one county, 2803c.

Validation, 2789c, § 4; 2790a-5, 2815g-32, 2815g-39, 2815g-40, 2815g-41.

Maintenance and bond purposes tax, 2790l.

## Maintenance tax,

Validation, 2815g-41.

Validation, 2815g-31, 2815g-32, 2815g-34, 2815g-37, 2815g-39, 2815g-40, 2815g-41.

Ad valorem taxes not exceeding legal limit, 2790a-6.

Warrants, taxes to pay interest and principal of warrants of districts in counties of more than 18,975 and less than 19,025, 2790d-8.

## Time warrants,

Authority to issue, counties of 30,400 to 31,150, 2790m.

Districts in counties of more than 18,975, and less than 19,025, 2790d-8.

## Trustees,

Junior colleges, transfer to board of regents, 2815o.

Rural high school districts converted into independent districts, 2922l(4), § 2.  
Terms of office, vacancies, etc., cities of 75,000 to 175,000, 2777d.

Validation, 2815g-29, 2815g-32 to 2815g-34, 2815g-36, 2815g-38, 2815g-39, 2815g-40, 2815g-41, 2815g-43, § 1.

Creation, annexation, detachment, abolition, consolidation, elections, bonds, etc., 2815g-39.

Districts redefined to include territory in more than one county, 2803c.

## SCHOOLS AND SCHOOL DISTRICTS (Cont'd)

## Time warrants (Cont'd)

## Validation (Cont'd)

Gymnasias, stadia and recreational facilities, construction and financing, 2802e-1, § 9.

Separation from municipal control, 2783e.

Warrants, districts in counties of 18,975 and less than 19,025, 2790d-8.

Interest, refunding, 2789.

Junior college districts, validation of creation and acts, 2815g-43, § 1.

Municipally controlled or assumed school districts, validation of election for separation from municipal control, 2815g-39.

Names of districts, validation, 2815g-43, § 1.

## Officers and employees,

Legal notices, etc., failure to publish, 6252-2.

Payroll deductions for United States bonds, 6252-3.

Parochial schools, accreditation, 2654-7, § 2a.

Private schools, accreditation, 2654-7, § 2a.

## Rural high school districts,

Annexation of districts, validation, 2815g-32, 2815g-39.

Bond issues, 2784e.

Validation, 2815g-32, 2815g-34, 2815g-39.

Bond tax, validation, 2815g-39.

## Consolidation,

Election, validation, etc., 2815-2.

Validation, 2815g-39.

Division of district containing more than twelve original school districts, 2922l(3).

## Elections,

Incorporation of districts, 2922l(4), § 1.

Trustees, 2922l(3).

Validation, 2815g-32, 2815g-34, 2815g-39.

Incorporation, procedure, etc., 2922l(4), § 1.

Independent districts, ante.

Validation, 2815g-39.

Tax rate, 2815g-43, § 2.

Trustees, 2922l(3).

Validation, 2815g-39, 2815g-43, § 1.

## School funds,

Abandoned river beds, proceeds of conveyance, 7467b.

Budget, State Board of Education, 2654-3, § 3.

## Equalization fund,

County-wide, election, 2744e-5.

Federal funds, foundation school fund, allocation to, 7083a.

## Foundation school fund,

Budget committee, composition and duties, 7083a.

Transfers to from clearance fund, 7083a.

Investment, bridge and causeway bonds of Gulf Coast counties of 50,000 or more, 6795b-1, § 7b.

## State Board of Education,

Advisory commissions, 2654-7, § 2.

Budget, 2654-3, § 3.

Central education agency, constituent parts, 2654-1, 2654-3.

Commissioner of education, ante.

Consolidation, restriction of power, 2654-7, § 5.

Organization, 2654-2.

Powers and duties, 2654-3.

Reorganization, 2654-7, § 3.

Report, legislature, 2654-3, § 3.

Rules and regulations, foundation school program, 2922-20.

State Board for Vocational Education, functions as, 2654-3, §§ 1, 2.

Textbook committee, organization and duties, 2654-4.

Vacancies, 2654-2, § 6.

- SCHOOLS AND SCHOOL DISTRICTS (Cont'd)**  
 State Commissioner of Education. Commissioner of Education, ante.
- State Department of Education,  
 Consolidation, restriction of power, 2654-7, § 5.  
 Division of special education, creation, 2922-4, 2922-13.  
 Organization and functions, 2654-6.
- State Superintendent of Public Instruction,  
 Abolition of office, 2654-7, § 3.  
 Powers and duties, transferred to Commissioner of Education, 2654-5.
- Taxes and assessments, levy, validated districts authorized to levy, 2815g-39, § 2.
- Taxes and taxation,**  
 Assessment,  
 Validated districts authorized to assess, 2815g-39, § 2.  
 Bond purposes, certain independent districts, 2790l.  
 Bond tax,  
 Counties of 55,000 to 61,000, 2802i-28.  
 Election,  
 Assumption of indebtedness on extension of boundaries or consolidation, 2805a.  
 Maintenance and bond tax, counties of 55,000 to 61,000, 2802i-28.  
 Validation, 2815g-31, 2815g-32, 2815g-37, 2815g-39, 2815g-40, 2815g-41.  
 Maintenance tax,  
 Certain independent districts, 2790l.  
 Counties of 55,000 to 61,000, 2802i-28.  
 Maximum rate, counties of 500,000 or more, election to increase, 2784f.  
 Rate,  
 Election to increase, counties of 500,000 or more, 2784f.  
 Validated district authorized to assess and levy, 2815g-39, § 2.  
 Validation, 2815g-39, 2815g-40.  
 Ad valorem taxes not in excess of legal limit, 2790a-6.
- Teachers,**  
 Certificates,  
 Issuance, 2654-5, § 4.  
 Foundation School Program, this index.
- Teachers' retirement,**  
 Auxiliary employees, 2922-1, § 3.  
 Benefits, 2922-1, § 5.  
 Credit for prior service, interchange between Teachers' Retirement System and Employees' Retirement System, 6228c.  
 Investment of funds, 2922-1, § 7.  
 Penalties, 2922-1, § 10.  
 Violation of provisions, 2922-1, § 10.
- Transportation of pupils, Foundation School Program Act, 2922-15, § 2.
- Trustees,**  
 Consolidation of independent districts, 2806e.  
 Consolidated independent school districts composed of certain territories, election, 2922i(3), § 5.  
 Election,  
 Counties of 500,000 or more, date of election, 2745b.  
 Rural high school districts composed of certain territories, election, 2922i(3), § 5.  
 Terms,  
 Cities of 75,000 to 175,000, 2777d.  
 Validation, 2815g-43, § 1.  
 Consolidation,  
 Rural high school districts, 2815-2.  
 Creation, annexation, detachment, abolition, consolidation, boundaries etc., 2815g-39.  
 Organization, annexation, elections, bonds, etc., 2742o, 2815g-39.  
 Separation or attempted separation of independent districts from municipal control, 2783e.
- SCHOOLS AND SCHOOL DISTRICTS (Cont'd)**  
 Vocational education, equipment, transfer from State Board for Vocational Education, 2675-1 note.  
 Warrants,  
 Purchase of motor vehicles for transporting pupils, foundation school program, 634(B).  
 Time warrants, independent districts, counties of 30,400 to 31,150, 2790m.
- SEALS**  
 Lubbock County Court at Law, 1970-340, § 17.  
 Telephone cooperative corporation, 1528c, § 4.
- SEARCHES AND SEIZURES**  
 Antifreeze, 165-6, § 4.  
 Intoxicating liquors, unstamped liquors, PC 666-21½.  
 Warrant,  
 Antifreeze, 165-6, § 4.
- SECRETARY OF STATE**  
 Apportionment of senatorial and legislative districts by Redistricting Board filed with, Const. art. III, § 28.  
 Corporations,  
 Process, charter forfeiture suit, 7095.  
 Fees, filing fees of instruments of telephone cooperative corporation, 1528c, § 28.  
 Foreign corporations, franchise tax,  
 Bond, 7086, § 3.  
 Deposit, 7086, § 2.  
 Initial tax, 7086, § 1.  
 Franchise tax,  
 Initial tax, 7086, § 1.  
 Liens,  
 Notice, recording with county clerks, 7090.  
 Release, 7090.  
 Notice of forfeiture of charter, etc., for failure to pay, etc., 7092a.  
 State bank in liquidation, 7085.  
 Game, fish and oyster commission's rule relating to depletion of wild life in certain counties filed with, PC 978n-1, § 10.  
 Notice of forfeiture of charter or right to do business for failure to pay franchise tax and penalty, 7092a.  
 Process,  
 Suits to forfeit corporate charter, 7095.  
 Records, chiropractic examiners, 4512b, § 5.  
 Reports to,  
 Attorney General, forfeiture of corporations' of rights to do business, 7092.  
 Franchise tax, 7087, 7089.  
 State bank in liquidation, 7085.
- SECURITIES ACT**  
 Religious corporations, exemption from act, 600a, § 3.  
 Telephone cooperative corporations, exemption from act, 1528c, § 31.
- SEGREGATED IRRIGATED AREA**  
 Definition, underground water conservation district, 7880-3c.
- SEGREGATION**  
 State parks, separate accommodation for negro and white races, 6070e.
- SELF-LIQUIDATING PROJECTS**  
 Junior colleges, dormitories, stadiums, etc., 2815r.
- SENILE PATIENTS**  
 Mexia State School and Home, generally, this index.
- SENTENCE AND PUNISHMENT**  
 Cumulative, commutation of time for good conduct, etc., 6184f.
- SEQUESTRATION**  
 Lubbock County Court, at Law, power to issue writs, 1970-340, § 16.

**SERVICE**

Defined, 6228a, § 1.  
Publication, default judgment prohibited, (RCP) Rule 812.

**SERVICE RETIREMENT**

Defined, 6228a, § 1.

**SERVICE RETIREMENT ALLOWANCE**

Defined, 6228a, § 1.

**SEXUAL INTERCOURSE**

Enticing or inviting child to place for purpose of proposing, PC 535b.

**SHERIFFS**

Central jury room, sheriff to be in charge of, CCP 367g.

Chief deputy, compensation, counties of 43,900 to 44,000, 3912f—4.

**Compensation,**

Counties of less than 20,000, compensated on salary basis, Const. art. XVI, § 61.

Counties of 43,900 to 44,000, 3912f—4.

Counties of 90,000 to 145,000, 3912e—16.

Counties of 398,000 or over, powers of commissioners court to fix maximum and minimum, 3912h.

**Deputies or assistants,**

Compensation, counties of less than 20,000 compensated on salary basis, Const. art. XVI, § 61.

Employees, deputies and assistants, counties of 301,000 to 398,000, 3912e—15.

Lubbock County Court at Law, duty to attend, 1970—340, § 18.

105th district court, 199(105), § 5.

Tax assessor and collector, sheriff as, compensation on salary basis in counties of less than 20,000, Const. art. XVI, § 61.

**SHERMAN COUNTY**

Wild life resources, regulation and conservation, PC 978n—1.

**SHRIMP**

Commercial fisherman, license, fees, PC 934b—2.

**SHRINES**

Governor James Stephen Hogg Memorial Shrine, Custody, State Parks Board, 6067a.

Oil and gas leases, 6077o.

**SIGNATURE**

Apportionment of senatorial and legislative districts by Legislative Redistricting Board, Const. art. III, § 28.

**SINKING FUND**

Independent school districts in counties of more than 18,975 and less than 19,025 to pay warrants, 2790d—8.

**Investment,**

Bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf, 6795b—1, § 7b.

Counties, cities, towns, school districts, etc., 836.

**SMITH COUNTY**

Apportionment, judicial districts, 199(7).

**SMOKE**

Carbon black plant near city or orchard, restriction, 6008a—1.

**SODOMY**

Infant, enticing or inviting infant to place for purpose of proposing commission of offense, PC 535b.

**SOIL CONSERVATION**

Audit, accounts, receipts and disbursements, supplies, etc., 165a—8, § 3.

Bonds, surety, 165a—8, § 4.

Districts, powers, 165a—8, § 4.

**SOIL CONSERVATION (Cont'd)****Grants,**

Deposits, withdrawals, 165a—8, § 6.

Eligibility to receive, 165a—8, § 1.

Unexpended, reversion to general fund, 165a—8, § 5.

Machinery, purchase, board of control, 165a—8, § 2a.

Reports, audit, 165a—8, § 3.

Soil Conservation Board, grants to districts, 165a—8, §§ 1, 2.

Supervisors, powers and duties, 165a—8, § 4.

Supplies and equipment, audit, 165a—3, § 3.

**SOLICITATION**

Child welfare agency, unauthorized person, 695c, § 8a.

**SOUND TRUCKS**

Intoxicating liquors, advertising by means of unlawful, PC 666—50.

**SPEAKER OF HOUSE OF REPRESENTATIVES**

Employees or clerks, salary fixed by appropriation bill, 6824 note.

Legislative Redistricting Board, member of, Const. art. III, § 28.

Per diem and traveling expenses while member of Legislative Redistricting Board, Const. art. III, § 28.

Texas Commission on Interstate Co-operation, member of, 4413b—1.

**SPECIAL GAME AND FISH FUND**

Rough fish and turtles, proceeds of sale payable into, 4050c, § 5.

**SPECIAL ISSUES**

Request for, separate from objections to charge, (RCP) Rule 273.

**SPECIAL JUDGES**

Lubbock County Court at Law, 1970—340, §§ 14, 15.

**SPECIAL SCHOOLS**

Architect's fees, restriction on amount paid, 7047c—1.

Board for State Hospitals and Special Schools, generally, this index.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**STADIUM**

Bonds, junior colleges, 2815r.

Junior colleges, self-liquidating project, 2815r.

**STAMP TAX**

Intoxicating liquors, PC 666—21½

Additional tax, PC 666—21½.

Unused note stamps, reimbursement of owners, 7047e, note.

**STAMPS**

Liquor control act, PC 666—21½.

**STANDARD CUBIC FOOT OF GAS**

Definition, 6008, § 2(k); 7047b, § 2(12).

**STANDARD GAS MEASUREMENT LAW**

Text of law, 6066b.

Citation of act, 6066b, § 1.

Civil suit for damages, venue, 6066b, § 5.

Defenses to claims for penalty, 6066b, § 5.

Definitions, 6066b, § 2.

Field rules, publication by Railroad Commission, 6066b, § 4a.

Findings, Railroad Commission, duty to make and publish, 6066b, § 4a.

Notice of public hearing, determination as to average gas temperatures, etc., 6066b, § 4a.

Partial invalidity of act, 6066b, §§ 5, 6.

Penalty for violations, 6066b, § 5.

Railroad Commission, determination of average temperature of gas and other variables, 6066b, § 4a.

- STANDARD GAS MEASUREMENT LAW**  
(Cont'd)  
Report, volumes of gas, 6066b, § 4b.  
Standard cubic foot of gas, sale, purchase, delivery, etc., basis of measurement, 6066b, § 5.  
Use of Commission's findings by others, 6066b, § 4a.
- STATE**  
Employees or clerks,  
National Guard, etc., leaves of absence, 5769b.  
Payroll deductions for United States bonds, 6252-3.  
Funds, investment in bridge and causeway bonds of Gulf counties of 50,000 or more, 6795b-1, § 7b.  
Injunction, temporary, bond, (RCP) Rule 684.  
Insurance company's loans guaranteed in whole or part by, 4725.
- STATE AGENCIES**  
Destruction of personal property found valueless by Board of Control, 666-2.  
Injunction, temporary, bond, (RCP) Rule 684.  
Poultry Improvement Board, co-operation with U. S. Department of Agriculture, 165-7.  
Property transferred from or to by board of control, state comptroller's duties, 666-1.
- STATE AID**  
Bridges, causeways and tunnels, Gulf Coast counties of 50,000 or more, 6795b-1, § 7a.
- STATE AUDITOR**  
Audit,  
Citrus Commission, 118d, § 7.  
Foundation school fund budget committee, member, 7083a.  
Foundation school program, duties respecting, 2922-20.  
Legislative council, assistance, 5429b, § 6.  
Soil conservation districts, 165a-8, § 3.
- STATE AUTOMATIC TAX BOARD**  
Ad valorem tax, levy by Board during donation of taxes to counties or political subdivisions, Const. art. VIII, § 1-a.
- STATE BAR**  
Fees, referendum of registered members as to, 320a-1, § 4.  
Rules of the Supreme Court governing the State Bar, see Rules set out foil, art. 320a-1.  
Board of directors, qualifications of directors, vacancies, election, terms, removal, meetings, Rules of the State Bar, art. VI, §§ 2-6.  
Meetings, Rules of the State Bar, art. VIII, § 1.  
President and vice president, election, Rules of the State Bar, art. V, § 2.
- STATE BOARD FOR HOSPITALS AND SPECIAL SCHOOLS**  
Buildings, designing, etc., excepted from law relating to board of control, 681.
- STATE BOARD FOR VOCATIONAL EDUCATION**  
Rules and regulations, foundation school program, 2922-20.  
Title, educational equipment, transfer authorized, 2675-1 note.
- STATE BOARD OF NATUROPATHIC EXAMINERS**  
See Naturopathic, generally, this index.
- STATE BOARD OF TRUSTEES**  
Defined, 6228a, § 1.
- STATE COMMISSIONER OF EDUCATION**  
See Schools and School Districts, this index.
- STATE DAIRY AND HOG FARM**  
Name changed, 3174a.  
Texas State Hospitals and Special Schools as including, 3174b, § 3.
- STATE EDUCATIONAL INSTITUTIONS**  
See, also, specific heads.  
Bonds, insurance company may invest in, 4766.  
Warrants, interest-bearing, insurance company may invest in, 4766.
- STATE FIRE MARSHAL**  
Fire escapes on school buildings, enforcement of law, 3959a.
- STATE HIGHWAY COMMISSION**  
Roads, this index.
- STATE HOSPITALS**  
Architects, restrictions on fees, 7047c-1.  
Board for State Hospitals and Special Schools, generally, this index.  
Discharge,  
Inmates, regulation, 5561b.  
Eleemosynary institutions, name changed to state hospitals and special schools, 3174a.  
Epileptics. Abilene State Hospital, generally, this index.  
Mexia State School and Home, transfer to, feeble-minded persons or aged senile persons, 3263c, § 1.  
State Hospital Fund, creation, use, etc., 3196b.  
Texas State Hospitals and Special Schools as including, 3174b, § 3.
- STATE HOSPITALS AND SPECIAL SCHOOLS**  
Executive director, member, Youth Development Council, 5143c, § 4.
- STATE HOSPITALS AND SPECIAL SCHOOLS BUILDING FUND**  
Creation and cigarette tax paid into, 7047c-1.
- STATE INSTITUTIONS**  
Destruction of personal property determined valueless by State Board of Control, 666-2.  
Property transferred from or to by board of control, state comptroller's duties, 666-1.  
Records,  
Inspection, legislative council, 5429b, § 5.
- STATE LIBRARY**  
Legislative council, assistance, 5429b, § 6.
- STATE MEDICAL ASSOCIATION**  
House of delegates, committee to make survey and locate medical department or branch of university, 2606b.
- STATE OFFICERS**  
Legal notices and financial statements, failure to publish, 6252-2.  
Salaries fixed in appropriation bill, 6824 note.
- STATE ORPHANS HOME**  
Name changed, 3174a.  
Texas State Hospitals and Special Schools as including, 3174b, § 3.
- STATE PARK BOARD**  
Generally, 6067-6070d.  
Certain parks under custody of, 6067a.  
Chairman as member of boards,  
Lease of state park lands, 6077o.
- STATE PARK DEVELOPMENT FUND**  
Oil and gas royalties from state park lands, 6077o.
- STATE-SUPPORTED INSTITUTIONS OF HIGHER LEARNING**  
Bonds, investment of teachers retirement funds in, 2922-1.
- STATE TAX BOARD**  
Automatic State Tax Board. Ad Valorem Taxes, generally, this index.



**STATE TAXES**

Ad valorem taxes for general revenue purposes prohibited, Const. art. VIII, § 1-a.  
Homestead, exemption from taxation, Const. art. VIII, §§ 1-b, 1-c.

**STATE TEACHERS COLLEGES**

Board of regents, contract with city for water and other utility services for North Texas State Teachers College, 2647e.  
Laboratory schools, contract with independent school districts for use of schools for, 2647c.  
Stephen F. Austin State College, name changed from Stephen F. Austin State Teachers College, 2647f.  
West Texas State Teachers College at Canyon, name changed to West Texas State College at Canyon, 2647d.

**STATE TREASURER****Bond,**

Protection of deposit, retirement of city water and sewer revenue bonds, 1118n-5.

Chiropractic Examiners Fund, transfer to Board of Chiropractic Examiners, 4512b note.

Citrus funds, 118d, § 18.

**Deposits,**

Veterans' Land Board bonds, 5421m, § 8.

Employment agency fund, 5221a-4; 5221a-5, § 9; 5221a-6, § 17.

Escheated corporate assets, distributive share, unknown stockholder, dissolution, 1395a.

**General Revenue Fund,**

Fees, registration of voters, 2977a, § 4a.

Naturopathic re-registration fund, 4590d, § 11.

Revenue bonds, city, retirement for new issue, 1118n-5.

Stamps for distilled spirits supplied by, PC 666-21½.

The 2, 4-D License Fund, 135b-2, § 6.

Vegetable certification fund, 118e, § 11.

Veterans' Land Fund, proceeds of sale of bonds deposited with, 5421m, § 8.

**STATE TUBERCULOSIS SANATORIUM**

East Texas State Tuberculosis Sanatorium, 3254d.

Name changed, 3174a.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**STATE TUBERCULOSIS SANATORIUM FOR NEGROES**

Appropriations for available to East Texas State Tuberculosis Sanatorium, 3254a-1, § 15.

Property and equipment retained, title, 3254a-1, § 14.

Property transferred to,

East Texas State Tuberculosis Sanatorium, 3254a-1, § 14.

**STATE UNIVERSITY FOR NEGROES**

Generally, 2643b, 2643c.

Agreement for transfer of property to, colleges making transfer relieved of obligations, etc., 2643c, § 4.

Approval of agreement for transfer of property of certain local colleges, 2643c, § 3.

Audit or financial report, prerequisite to transfer agreement, 2643c, § 3.

**Board of directors,**

Authority, 2643e, § 7.

Composition, qualifications, term, etc., 2643b, § 3.

Expenditures, 2643b, § 4.

Grants or gifts, authority to accept, 2643b, § 8.

Money, control, 2643e.

Powers and duties, 2643b, §§ 2, 5, 7.

Validation, 2643e, § 6.

Bonds, revenue, 2643d, §§ 2, 6.

**Buildings,**

Authorized, 2643d, § 1.

Construction and equipment, 2643b, § 6.

**STATE UNIVERSITY FOR NEGROES (Cont'd)**

By-laws, rules and regulations, powers of directors, 2643b, § 7.

Colored person, defined, 2643b, § 12.

Contracts, construction of buildings, 2643b, § 6.

Courses of study, 2643b, § 2.

Declaration of legislative policy and purpose, 2643b, § 1.

Definitions, 2643b, § 12; 2643c, 2643c, § 1.

Degrees and diplomas, powers of directors, 2643b, § 7.

Depositories, 2643e, § 2.

Directors. Board of directors, ante.

Dormitories, 2643d.

Eminent domain, powers and duties of directors, 2643b, § 5.

Establishment, 2643b, § 2.

Expenditures, board of directors, 2643b, § 4.

Fees, charges and rentals, 2643d, § 2.

Governing body, directors of Agricultural and Mechanical College of Texas, 2643b, § 2.

Government of, 2643b, § 3.

Grants or gifts, powers of directors, 2643b, § 8.

Local college defined, 2643c, § 1.

Partial invalidity of act, 2643c, § 6.

Prairie View Agricultural and Mechanical College of Texas, division of university, 2643b, § 2.

Professors, instructors, etc., removal, power of directors, 2643b, § 7.

Qualified applicant defined, 2643b, § 12.

Repeal of conflicting laws, 2643c, § 5.

Site, buildings, 2643b, §§ 5, 6.

Transfer of property by certain local colleges to, agreement for, 2643c, § 2.

**STATE YOUTH DEVELOPMENT COUNCIL**

See Youth Development Council, this index.

**STATES ATTORNEY**

Salary of before Court of Criminal Appeals, 3886f.

**STENOGRAPHERS****Salaries,**

Counties constituting judicial district having six to nine permanent district courts, 2326i.

**STEPHEN F. AUSTIN STATE COLLEGE**

Name changed from Stephen F. Austin State Teachers College, 2647f.

**STEPHEN F. AUSTIN STATE PARK**

Oil and gas leases, 6077e.

**STEPHEN F. AUSTIN STATE TEACHERS COLLEGE**

Name changed to Stephen F. Austin State College, 2647f.

**STERLING COUNTY**

County court, jurisdiction increased, 1970-316.

**STILLBORN**

Reports from physicians, standard serologic test for syphilis, administration during pregnancy, 4445a, § 3.

**STOCK LAWS**

Livestock Sanitary Commission, records of motor vehicles transporting livestock for sale, forms, etc., 1287a.

**STOCK TRANSFER TAX**

Additional tax, 7047m, § 1½.

Amount of additional tax, 7047m, § 1½.

Bill or memorandum of sale of certificate, additional tax, 7047m, § 1½.

Brokers, deliveries by or to brokers as not subject to additional tax, 7047m, § 1½.

Cancellation of stamps, additional tax, 7047m, § 1½.

Collateral security, deposits of certificates, as collateral as not taxable, 7047m, § 1½.

**STOCK TRANSFER TAX (Cont'd)**

Exemption from additional taxes, 7047m, § 1½.  
 Payment, additional tax, 7047m, § 1½.  
 Pledge of security, additional tax, 7047m, § 1½.  
 Stamps, additional tax, 7047m, § 1½.  
 Transactions taxable, additional tax, 7047m, § 1½.

**STORAGE**

Intoxicating liquors, stamp tax on, PC 666—21½.

**STORES**

License fees, PC 1111d.

**SUBDIVISION OF UNDERGROUND WATER RESERVOIR**

Definition, 7880—3c.

**SUBPOENA DUCES TECUM**

Legislative council, 5429b, § 5.

**SUBPOENAS**

Citrus Commission, 118d, § 10.  
 Deposition, service, (RCP) Rule 202.  
 Legislative council, 5429b, § 5.

**SUITS**

Court of Civil Appeals, original proceeding, motion for leave to file, (RCP) Rule 383.  
 Deposit for costs,  
 Court of Civil Appeals, (RCP) Rule 388—A.  
 Supreme Court, (RCP) Rule 485.

**SULPHUR**

Occupation tax on producers, additional tax, 7047n.

**SULPHUR PRODUCERS**

Occupation taxes, 7047n.

**SUL ROSS STATE COLLEGE**

Name changed from Sul Ross State Teachers College, 2647g.

**SUL ROSS STATE TEACHERS COLLEGE**

Name changed to Sul Ross State College, 2647g.

**SUMMARY JUDGMENT**

Generally, (RCP) Rule 166—A.

**SUPERINTENDENTS**

Juvenile correctional institutions. Infants, generally, this index.

**State hospitals,**

Discharge of patient, 5561b.

Youth Development Council, schools and facilities, 5143c.

**SUPERSEDEAS****Bond,**

Amount and approval, (RCP) Rule 385.

Filing, writ of error, application, (RCP) Rule 473.

Interlocutory orders, appeals, (RCP) Rule 385.

Lubbock County Court at Law, power to issue writs, 1970—340, § 16.

**SUPPORT****Children,**

Investigation by Juvenile Officer of father's ability to support, 5142c, § 3.

Juvenile Officer to receive payments and disburse support money, 5142c, § 4.

**Wife,**

Investigation by Juvenile Officer of husband's ability to support, 5142c, § 3.

Juvenile Officer to receive payment and disburse support money, 5142c, § 4.

**SUPREME COURT**

Clerk of court, salary, supplementary salary from receipts, 6824 note.

Deposit for costs, (RCP) Rule 485.

**Judges,**

Retirement, 6228b.

Salaries, 6819a—6.

**SUPREME COURT (Cont'd)**

Jurisdiction, Legislative Redistricting Board, jurisdiction to compel performance of duties, Const. art. III, § 28.

Legislative Redistricting Board, jurisdiction to compel Board to perform duties, Const. art. III, § 28.

**Mandamus to,**

Court of Civil Appeals, certification, compelling, (RCP) Rule 475.

Legislative Redistricting Board to compel performance of duties, Const. art. III, § 28.

Opinion, attorneys, delivery to, (RCP) Rule 456.

Rehearing, motion, (RCP) Rule 515.

**SUSPENDED SENTENCES**

Children, delinquency, contributing to, PC 534a.

**SWISHER COUNTY**

Wild life resources, regulation and conservation, PC 978n—1.

**SYPHILIS**

Premarital examination, 4612a.

Prenatal examination required, 4445a, § 1.

Standard serologic test, 4445a, § 2; 4612a.

**TAGS**

Deer tags, PC 895a.

**TANKS**

Liquified petroleum gas, 6053, § 6.

**TARLETON STATE COLLEGE**

Name, change from John Tarleton Agricultural College, 2616a.

**TAX ASSESSORS AND COLLECTORS****Compensation,**

Counties of,

90,000 to 145,000, 3912e—16.

398,000 or over, powers of commissioners court to fix maximum and minimum, 3912h.

**Counties,**

Foundation school program, duties respecting, 2922—16, § 5.

Employees, deputies and assistants, counties of 301,000 to 398,000, 3912e—15.

Sheriff, assessor and collector in counties of less than 20,000, compensated on salary basis, Const. art. XVI, § 61.

**TAXES AND TAXATION**

Assessors, motor vehicle sales tax collected by, 7047k—1, § 5.

Beer or malt liquor, additional tax, PC 667—23A.

**Cities, towns and villages,**

County-city health units, Const. Art. 3, § 48-b.

Validation, 6081h.

Ad valorem levies not exceeding legal limit, 2790a—6.

Water district taxes, removal of lands from, 8230—1.

Citrus Commission, this index.

Citrus fruit, 118d.

**Collector,**

Motor vehicle sales tax,

Affidavit of purchaser filed with, 7047k—1, § 5(a).

Collected by, 7047k—1, § 5.

Duties relating to, 7047k—1, § 6.

Compilation of data, compensation of person, etc., employed, 7212.

**Counties,**

Ad valorem,

Power to levy, Const. Art. VIII, § 1-a.

Bonds, cancelled issue, validation, 717f.

Exemptions, Const. art. VIII, § 1-a.

Homestead from ad valorem taxes, Const. art. VIII, § 1-a.

Farm to Market Roads, use of ad valorem taxes for construction and maintenance, Const. art. VIII, § 1-a.

## TAXES AND TAXATION (Cont'd)

## Counties (Cont'd)

- Flood control, use of ad valorem tax for construction and maintenance, Const. art. VIII, § 1-a.
- Health units,
  - County-city units, Const. Art. 3, § 48-b.
- Rate,
  - Ad valorem tax, Const. art. VIII, § 1-a.
- Delinquent taxes,
  - Carbon black producers' additional occupation taxes, 7047o.
  - Collections, attorneys fees for collection in certain counties bordering Mexican boundaries, 7345e.
  - Gas producers' occupation tax, 7047b, § 1½.
- Interest,
  - Carbon black producers' additional occupation tax, 7047o.
  - Gas producers' occupation taxes, 7047b, § 1½.
  - Oil and gas well services, additional tax, 7060b, § 3.
  - Oil occupation taxes, 7057a, § 2A.
  - Oil and gas well services, additional taxes for, 7060b, § 3.
  - Oil occupation tax, 7057a, §§ 2, 2A, 7.
- Penalties,
  - Carbon black producers' additional occupation tax, 7047o.
  - Gas producers' occupation taxes, 7047b, § 1½.
  - Oil and gas well services, additional tax, 7060b, § 3.
  - Oil occupation tax, 7057a, §§ 2, 2A, 6.
  - Sulphur producers' occupation taxes, 7047n.
  - Sulphur producers' occupation taxes, 7047n.
- Donations, levy of state ad valorem taxes during period of donation to counties or political subdivisions, Const. art. VIII, § 1-a.
- Exemptions, Const. art. VIII, §§ 1-a, 1-b.
  - Beer tax, additional tax, PC 667—23A.
- Bonds, etc., for electric light and power service, home-rule cities, 1110b.
- Citrus fruit tax, 118d, § 1i.
- Homestead, Const. art. VIII, §§ 1-b, 1-c.
- Homestead from county ad valorem tax, Const. art. VIII, § 1-a.
- Municipal auditorium or theater, revenue bonds for air conditioning, cities of 175,000, 835j.
- Occupation taxes, motor bus companies, motor carriers or contract carriers, 7066c.
- Parking lot revenue bonds, cities under 60,000, 835h.
- Stock transfer tax, additional tax, 7047m, § 1½.
- Telephone cooperative corporation's mortgages from recordation tax, 1528c, § 23.
- Fire-fighting equipment, commissioners court, authority to levy for payment of, 2351a—4.
- Franchise taxes,
  - Additional taxes, 7084½.
  - Forfeiture of rights, 7084½.
  - Report of additional tax, 7084½.
- Gross receipts taxes,
  - Additional taxes, 7057e.
  - Allocation of additional taxes, 7057e.
  - Contract carriers, additional tax, 7066c.
  - Cosmetics, sale of new cosmetics, 70477.
  - Electric light and power company, 7060½.
  - Gas companies, 7060½.
  - Insurance companies, additional tax, 7064½.
  - Interest, lien for, 7057e.
  - Lloyd's and reciprocals organizations, additional tax, 7064½.
  - Motor bus companies, additional tax, 7066c.
  - Motor carriers, additional tax, 7066c.
  - Oil and gas wells, additional tax for services in connection with, 7060b.
  - Penalties, liens for additional taxes, 7057e.

## TAXES AND TAXATION (Cont'd)

## Gross receipts taxes (Cont'd)

- Playing cards, sale of, 70477.
- Radios, sale of, 70477, § 1½.
- Records, oil and gas well, additional taxes for services in connection with, 7060b, § 2.
- Reports,
  - Additional taxes, 7057e.
  - Motor bus carriers, motor carriers or contract carriers, 7066c.
  - Oil and gas wells, additional taxes for services in connection with, 7060b, § 1.
  - State hospital fund, additional taxes paid into, 3196b.
  - Telephone lines, 7070A.
  - Television sets, sale of, 70477.
- Intoxicating liquors, PC 666—21½.
  - Additional tax, PC 666—21½.
  - Beer, PC 667—23A.
- Junior college district, election to determine levy by enlarged district, 2815s.
- Liens,
  - Gross receipts taxes, additional taxes, 7057e.
  - Occupation taxes, 7057e.
  - Oil and gas well services, additional tax, 7060b, § 3.
- Mortgage recordation tax, exemption of telephone cooperative corporations mortgages, 1528c, § 23.
- Mosquito control districts in certain counties, 4477—2.
- Note stamps, unused, reimbursement of owners, 7047e note.
- Occupation taxes,
  - Additional taxes, 7057e.
  - Allocation of additional taxes, 7057e.
  - Carbon black producer, 7047o.
  - Contract carrier, additional tax, 7066c.
  - Electric light and power company, 7060½.
  - Gas companies, 7060½.
  - Gas producers,
    - Additional taxes, 7047b, § 1½.
    - Amount of additional tax, 7047b, § 1½.
    - Comptroller, payment to of taxes deducted by purchaser, 7017b, § 1½.
    - Computation, 7047b, § 1½.
    - Definition, 7047b, § 1½.
    - Delinquent additional taxes, 7047b, § 1½.
    - Interest, delinquent taxes, 7047b, § 1½.
    - Liability for additional tax, 7047b, § 1½.
    - Liquid hydrocarbons, 7047b, § 1½.
    - Market value, defined, 7047b, § 1½.
    - Payment of additional tax, 7047b, § 1½.
    - Penalties, delinquent taxes, 7047b, § 1½.
    - Purchaser, deduction of tax from amount paid to producer, 7047b, § 1½.
    - Rate of tax, 7047b, §§ 1, 1½.
    - Records, duty to keep, 7047b, § 1½.
    - Reports, 7047b, § 1½.
  - Gas wells, additional taxes for services in connection with, 7060b.
  - Injunction against, carbon black producer on failure to pay, 7047o.
  - Insurance companies and organizations, additional tax, 7064½.
  - Interest,
    - Lien, 7057e.
    - Sulphur producers, 7047n.
  - Liens, 7057e.
  - Liquid hydrocarbons, 7047b, § 1½.
  - Lloyd's or reciprocals insurance organizations, additional tax, 7064½.
  - Motor bus companies, additional tax, 7066c.
  - Motor carriers, additional taxes, 7066c.
  - Offenses, additional taxes, 7057e.
  - Oil produced,
    - Action against purchaser failing to pay additional tax, 7057a, § 2A.
    - Additional tax, 7057a, § 2A.
    - Computation of additional tax, 7057a, § 2A.

## TAXES AND TAXATION (Cont'd)

- Occupation taxes (Cont'd)
  - Oil produced (Cont'd)
    - Deduction of additional tax on payment by purchaser to producer, 7057a, § 2A.
    - Definition, market value of oil, 7057a, § 2A.
    - Delinquent additional taxes, 7057a, § 2A.
    - Interest on delinquent taxes, 7057a, § 2A.
    - Market value of oil, defined, 7057a, § 2A.
    - Payment of additional tax, 7057a, § 2A.
    - Producer, 7057a, § 2A.
    - Purchaser, 7057a, § 2A.
    - Rate, additional taxes, 7057a, § 2A.
    - Records and reports, 7057a, § 2A.
  - Oil wells, additional taxes for services in connection with, 7060b.
  - Payment, carbon black producers, additional tax, 7047o.
  - Penalties, priority of liens, 7057e.
  - Priority of liens, 7057e.
  - Rate, carbon black, additional tax, 7047o.
  - Records,
    - Carbon black producers, additional tax, 7047o.
    - Oil and gas wells, additional taxes for services in connection with, 7060b, § 2.
  - Reports,
    - Additional taxes, 7057e.
    - Carbon black producers, 7047o.
    - Distributors, 7047(41.a).
    - Motor bus companies, motor carriers, or contract carriers, 7066c.
    - Public utilities, additional tax, 7060½.
    - Sulphur producers, 7047n.
  - State hospital fund, additional taxes paid into, 3196b.
  - Sulphur producers, 7047n.
  - Telephone lines and telephones, 7070A.
- Offenses,
  - Occupation taxes, additional taxes, 7057e.
  - Oil and gas well services, additional tax, 7060b, § 3.
- Payment,
  - Beer tax, additional tax, PC 667—23A.
  - Carbon black producers, additional occupation tax, 7047o.
  - Gas producers' occupation tax, 7047b, §§ 1½, 3.
  - Gross premiums taxes, additional tax, 4769½. 7064a—1.
  - Intoxicating liquors, PC 666—21½.
  - Oil occupation tax, 7057a, § 2A.
- Penalties, occupation taxes liens, 7057e.
- Personal property located on land acquired by United States, 5248.
- Port of Beaumont Navigation District of Jefferson County, §198 note.
- Receipt, motor vehicle sales tax, 7047k—1, § 6.
- Refund, beer tax, additional tax, PC 667—23A.
- Reports, oil and gas wells, additional tax on services in connection with, 7060b, § 1.
- Schools and school districts,
  - Rate, 2815g—43, § 2.
  - Validation of levy, 2815g—43, § 1.
- Stamp tax, intoxicating liquors, PC 666—21½.
- State hospital fund, additional taxes paid into, 3196b.
- Taxation, tax donation, levy of state ad valorem title during period of, Const. art. VIII, § 1-a. United States,
  - Percentage of purchase price of land acquired by United States for flood control in lieu of taxes, 5248i.
  - Personal property located on property acquired by, 5248.
- Use tax on motor vehicles, 7047k—1, § 2.
  - Purchased outside state and brought into state, 7047k—1, § 5.

## TELEGRAPHS AND TELEPHONES

- Occupation tax on telephone lines and telephones, 7070A.
- Telephone companies,
  - Taxes and taxation,
    - Additional occupation tax, 7070A.
    - Gross receipts tax, 7070A.
    - Occupation taxes, 7070A.
- Telephone cooperative corporations. Telephone Cooperative Corporations, this index.
- TELEPHONE COOPERATIVE CORPORATIONS
  - Acknowledgments taken by officer, director or member, 1528c, § 27.
  - Action, power to sue and be sued, 1528c, § 4.
  - After-acquired property subject to mortgage or pledge, 1528c, § 25.
  - Agreement for consolidation, 1528c, § 20.
  - Amendment of articles of incorporation, 1528c, §§ 18, 32.
    - Filing fee, 1528c, § 28.
  - Articles of consolidation, filing fee, 1528c, § 28.
  - Articles of dissolution, filing fee, 1528c, § 28.
  - Articles of incorporation, 1528c, §§ 5-8, 18, 20, 32.
    - Filing fee, 1528c, § 28.
  - Assets distributed on dissolution, 1528c, § 21.
  - Bonds and evidences of indebtedness, 1528c, §§ 4, 31.
  - By-laws, 1528c, §§ 4, 9-11, 14, 15, 17, 22.
  - Certificate of,
    - Consolidation, 1528c, § 20.
    - Dissolution, 1528c, § 21.
    - Incorporation, 1528c, § 8.
    - Membership, 1528c, § 11.
  - Change of location of principal office, 1528c, § 19.
  - Connection of facilities, 1528c, § 30.
  - Consolidation, 1528c, §§ 20, 28.
  - Construction standards, 1528c, § 26.
  - Contracts, 1528c, § 4.
    - Relative to disposition of revenues and receipts, 1528c, § 22.
  - Debts of corporations, non-liability of members for, 1528c, § 24.
  - Defectively organized corporations, 1528c, § 32.
  - Definitions, 1528c, § 2.
  - Delegates of districts, 1528c, § 15.
  - Directors, 1528c, §§ 6, 10, 12, 14-17, 19-21, 23, 27.
  - Dissolution, 1528c, §§ 12, 21.
  - Districts, 1528c, § 15.
  - Election,
    - Directors, 1528c, § 14.
    - Executive committee, 1528c, § 17.
    - Officers, 1528c, § 16.
  - Eminent domain, exercise of power, 1528c, § 4.
  - Employees and agents, 1528c, § 16.
  - Evidence of creation, 1528c, § 7.
  - Excise tax, exemption from, 1528c, § 29.
  - Execution against property of members for debts of corporation, 1528c, § 24.
  - Executive committee, 1528c, § 17.
  - Existing corporations, act applicable to, 1528c, § 33.
  - Federal aid, 1528c, § 31.
    - Mortgage to secure, 1528c, § 23.
  - Filing,
    - Amended articles of incorporation, 1528c, § 19.
    - Articles of consolidation, 1528c, § 20.
    - Articles of incorporation, 1528c, § 7.
    - Fees, 1528c, § 28.
  - Foreign corporations,
    - Membership certificates issued by exempt from securities act, 1528c, § 31.
    - Record of mortgage, 1528c, § 25.
  - Incorporators, 1528c, §§ 5, 6, 7, 9, 11, 21.
  - Interconnection of facilities, 1528c, § 30.
  - Leases, 1528c, §§ 4, 23.
  - License fee, 1528c, § 29.
  - Local telephone exchange service, 1528c, § 4.
  - Meetings,
    - Directors, 1528c, § 14.
    - District meetings, 1528c, § 15.

**TELEPHONE COOPERATIVE CORPORATIONS (Cont'd)**

Meetings (Cont'd)  
 Members, 1528c, §§ 12, 14, 20, 21.  
 Organization meeting, 1528c, § 9.  
 Members, patrons of existing lines acquired by cooperative, 1528c, § 4.  
 Membership certificates, 1528c, §§ 4, 31.  
 Mortgages and trust deeds, 1528c, §§ 4, 23, 25, 31.  
 Name of corporation, 1528c, § 6.  
 Non-profit operation, 1528c, § 22.  
 Notice of meetings, 1528c, §§ 9, 12, 13.  
 Members, 1528c, § 18.  
 Officers, 1528c, §§ 9, 16, 27.  
 Organization meeting, 1528c, § 9.  
 Perpetual succession, 1528c, § 4.  
 Pledge of property, 1528c, § 25.  
 Pledges, 1528c, § 4.  
 Powers of corporation, 1528c, § 4.  
 Principal office, 1528c, §§ 9, 19.  
 Property.  
 Disposition of, 1528c, § 23.  
 Power to acquire and dispose of, 1528c, § 4.  
 Purpose of organization, 1528c, § 3.  
 Qualification of members, 1528c, § 11.  
 Record,  
 Articles of consolidation, 1528c, § 20.  
 Articles of incorporation, 1528c, § 7.  
 Certificate of dissolution, 1528c, § 21.  
 Mortgages, 1528c, § 25.  
 Recordation tax, exemption of mortgages from, 1528c, § 23.  
 Renewal of articles of incorporation, 1528c, § 8.  
 Sale and disposition of property, 1528c, §§ 4, 23.  
 Seal, 1528c, § 4.  
 Secretary of state, 1528c, § 28.  
 Securities act inapplicable to, 1528c, § 31.  
 Title of act, 1528c, § 1.  
 Waiver of notice of meetings, 1528c, § 13.

**TELEVISION**

Advertisement of alcoholic beverages, PC 667—5A.  
 Projecting indecent or offensive music, etc., on liquor licensee's premises, PC 666—51a.

**TELEVISION SETS**

Luxury excise tax, 7047i, § 1½.

**TERM OF OFFICE**

Bailiff appointed by district judges in counties having nine or more district courts, CCP 367g.  
 Board of tuberculosis nurse examiners, member of, 4528b, § 1.  
 Judge of Lubbock County Court at Law, 1970—340, §§ 9, 11.  
 Navigation and canal commissioners, §263—e, § 13-a.  
 Reporter of Lubbock County Court at Law, 1970—340, § 23.

**TERMINAL COMPANIES**

Nonprofit companies, franchise tax, exemption, 7094.

**TERMS OF COURT**

County attorney, Lubbock County Court at Law representing state in prosecutions in court, 1970—340, § 11.

**TERRELL STATE HOSPITAL**

Aged feeble-minded, Board of Control authorized to establish division for treatment of, 3263c, § 5.  
 Name changed, 3174a.  
 Texas State Hospitals and Special Schools as including, 3174b, § 3.

**TEXAS BLIND, DEAF AND ORPHAN SCHOOL**

Name changed, 3174a.  
 Texas State Hospitals and Special Schools as including, 3174b, § 3.

**TEXAS LEGISLATIVE COUNCIL**

See Legislature, generally, this index.

**TEXAS REVOLUTION**

Pensions for widows of veterans, 6227a.

**TEXAS SCHOOL FOR THE BLIND**

"Good cause" for removal of superintendent defined, 3202—c.  
 Name changed, 3174a.  
 Qualifications,  
 Superintendent, 3202—c.  
 Superintendent, qualifications, residence, removal, etc., 3202—c.  
 Texas State Hospitals and Special Schools as including, 3174b, § 3.

**TEXAS SCHOOL FOR THE DEAF**

"Good cause" for removal of superintendent defined, 3202—c.  
 Name changed, 3174a.  
 Deaf and dumb asylum, 3205a.  
 Qualifications,  
 Superintendent, 3202—c.  
 Superintendent, qualifications, residence, removal, etc., 3202—c.  
 Texas State Hospitals and Special Schools as including, 3174b, § 3.

**TEXAS STATE HOSPITALS AND SPECIAL SCHOOLS**

See State Hospitals, this index.

**TEXAS WESTERN COLLEGE OF UNIVERSITY OF TEXAS**

Funds, bonds, or notes allocated to, 2633a.  
 Name changed to from college of mines and metallurgy, 2633a.  
 School or college of mines and metallurgy at El Paso, name changed, 2633a.  
 Validation, legislative acts and appropriations etc., to college for school of mines and metallurgy, 2633a.

**THIRTY-SIXTH DIVISION STATE PARK**

Oil and gas leases, 6077o.

**TIDAL WATERS**

Definition, PC 934b—2.

**TIMBER**

Huntsville State Park, sale, 6077p.

**TIME**

Enlargement, (RCP) Rule 5.  
 Extension, deposit for costs, Court of Civil Appeals, (RCP) Rule 388—A.  
 Rehearing, shortening, (RCP) Rule 515.

**TIME WARRANT**

Counties exceeding 300,000, 2368f.

**TIPS STATE PARK**

Oil and gas leases, 6077o.

**TRADE-MARKS AND TRADE-NAMES**

Doing business under, denial, verification, (RCP) Rule 93.

**TRAILERS**

Regulation, 6701d, § 106.

**TRANSPORTATION**

Liquified petroleum gas, 6053, § 6.

**TRAVELING EXPENSES**

Lieutenant Governor as member of Legislative Redistricting Board, Const. art. III, § 23.  
 Speaker of House as member of Legislative Redistricting Board, Const. art. III, § 28.  
 Veterans County Service Officer and assistant, 5798a—2.

**TRAVIS COUNTY**

Banking commissioner, actions by, revocation of charter of building and loan association, §81a—41.  
 Suits by Attorney General to enjoin commercial fishing law violations, PC 934b—2.  
 Venue of suits or actions, Board of Control, suit by to remove superintendent of school for blind or school for deaf, 3202—c.

**TRIAL**

Instructions, request for, separate from objections to charge, (RCP) Rule 273.

Jury, application and fee, (RCP) Rule 216.

Special issues, request for, separate from objections to charge, (RCP) Rule 273.

**TRINITY BAY CONSERVATION DISTRICT**

Creation, etc., foll. §197f.

**TRINITY WATERSHED**

Flood control, consent of United States to acquire land for purpose of flood control, 5248i.

**TRUCKS**

Liquefied petroleum gas, transportation, 6053, § 6.

**TRUST COMPANIES**

Intoxicating liquors, warehouse receipts, sale on death of permittee or licensee, etc., PC 666—13.

Investments,

Bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf, 6795b—1, § 7b.

**TRUSTS AND TRUSTEES**

Investments,

Bridge, causeway or tunnel bonds, counties of 50,000 or more on Gulf, 6795b—1, § 7b.

**TUBERCULOSIS NURSES**

Board of tuberculosis nurse examiners, 4528b, §§ 1—3, 7.

Bond of secretary-treasurer for board of examiners, 4528b, § 3.

Certificate, 4528b, § 7.

Certificate of registration, 4528b, §§ 4, 6.

Complaint against registered nurse, 4528b, § 7.

Examination, 4528b, §§ 4—6.

Exemption of certain persons from act, 4528b, § 8.

Recording certificate, 4528b, § 6.

Revocation of certificate, 4528b, § 7.

Registration, 4528b, § 7.

Secretary-treasurer of board of examiners, 4528b, §§ 2, 3.

**TUBERCULOSIS SANATORIUM**

Board for State Hospitals and Special Schools, authority to acquire lands, buildings, etc., for sanatorium, 3174b, § 8.

**TUNNELS OR UNDERPASSES**

Contract or lease agreement for operation of tunnels, etc., counties of 50,000 or more on Gulf, 6795b—1, § 5a.

Federal aid, Gulf counties of 50,000 or more, agreements for acquisition of property and construction, 6795b—1, § 7a.

State and federal government agencies, agreements for aid for construction, Gulf counties of 50,000 or more, 6795b—1, § 7a.

**TURTLES**

Game, Fish and Oyster Commission, authority to remove from public fresh waters, 4050c.

Proceeds of sale by commission or contractors payable into special game and fish fund, 4050c, § 5.

**TYLER STATE PARK**

Oil and gas leases, 6077o.

**UNDERGROUND**

Definition, 7880—3c.

**UNDERGROUND WATER CONSERVATION DISTRICTS**

Creation, organization, powers, etc., 7880—3c.

**UNDERGROUND WATER RESERVOIR**

Definition, 7880—3c.

**UNDERWRITERS AND UNDERWRITING**

Joint underwriting,

Examinations, 4698b, § 3.

Regulation, 4695b, § 1.

**UNEMPLOYMENT COMPENSATION**

Benefits, disqualification for, 5221b—3.

Compensation experience,

Defined, 5221b—5.

Rating, transfer, etc., 5221b—5.

Disqualification for benefits, 5221b—3.

Transfer, compensation experience, 5221b—5.

**UNION JUNIOR COLLEGE DISTRICTS**

Dissolution, transfer of properties to senior college within district, etc., 2815q.

Taxes, levy by commissioners court, payment of bonds of dissolved district, 2815q.

**UNITED STATES**

Bonds,

Payroll deductions for purchase by public employees, 6252—3.

Commissioners court, housing facilities and lands, authority to acquire from government, 2351, subd. 19.

Consent of Texas to acquisition by United States of property for purpose of flood control, 5248i.

Governor, authority to convey title to lands on Rio Grande to carry out treaty for flood control, etc., 5248g.

Life insurance company's loans guaranteed by, 4725.

Personal property located on land acquired by United States as subject to taxation, 5248.

Taxation of personal property located on land acquired by, 5248.

**UNIVERSITY**

See State University for Negroes, generally, this index.

**UNIVERSITY OF TEXAS**

Board of Regents,

Investment of general property deposit, 2654d—1.

Lease of surface, authority, 2592a.

Medical department or branch of university to be established, location, 2606b.

Mineral lands other than oil and gas, control of by board, 2597.

Branches, medical branch, establishment, location, etc., 2606b.

General property deposit, refund, 2654d—1.

Investment, general property deposit, 2654d—1.

Lands, mineral lands, control by board of regents, 2597.

Medical department or branch, established at place other than Galveston, etc., 2606b.

Refund, general property deposit, 2654d—1.

Scholarship awards, income from investment of general property deposit, 2654d—1.

Tuition and fees, exemption of students from state orphanages, 2654F.

Validation, leases of surface by board of regents, 2592a.

**UPSHUR COUNTY**

Apportionment, judicial districts, 199(115).

**URBAN PROPERTY**

Definition, 8230—3, § 1.

**USE TAX**

Motor vehicles purchased outside state, 7047k—1, § 2.

Bringing into state, 7047k—1, § 5.

**VACANCIES IN OFFICE**

Board of regents,

Lamar State College of Technology, 2637b.

Texas State College, filling by Governor, 2651a.

Judge of Lubbock County Court at Law, 1970—340, § 20.

Navigation and canal commissioners, self-liquidating navigation districts, 8263—e, § 18-a.

School trustees in cities of 75,000 to 175,000, 2777d.

**VAGRANCY**

Veneral diseases, medical examination of convicted vagrants, quarantine, 4445, § 3.

**VALIDATION****Annexation,**

Territory to cities and towns of 5,000 and less, 974c—1.

Bonds, school districts, 2815g—43, § 1.

Boundaries of cities and towns of 2,000 or less after discontinuance of territory, 973a.

Cities, towns and villages, incorporation, boundaries, etc., of cities and towns of 5,000 inhabitants or less, 974d—2.

County line school districts, 2815g—43, § 1.

**Discontinuance of,**

Territory from cities and towns of 2,000 or less, 973a.

Fire truck and equipment bonds, cities, 835i.

Incorporation of cities and towns of 5,000 or less, 974d—2.

Independent school districts, 2815g—43, § 1.

Junior college districts, 2815g—43, § 1.

Leases by board of regents of university of surface lands, 2592a.

Matagorda County Water Control and Improvement District No. 1, foll 8197f note.

Port of Beaumont Navigation District, creation, resolutions, taxes, elections, etc., 8198 note.

School districts, 2815g—43, § 1.

**Tax levies,**

Port of Beaumont Navigation District, 8198 note.

School districts, 2815g—43, § 2.

**VEGETABLES**

Broccoli, plants, certification, 118e, § 3.

Cabbage, plants, certification, 118e, § 3.

Cauliflower, plants, certification, 118e, § 3.

Certification, purpose, 118e, § 1.

Collards, plants, certification, 118e, § 3.

Diseased, destruction, 118e, § 3.

Egg plants, certification, 118e, § 6.

**Inspection,**

Diseased plants, 118e, § 1.

Fees, 118e, §§ 10, 11.

Rules and regulations, 118e, § 1.

Onions, plants, certification, 118e, § 5.

Pepper, plants, certification, 118e, § 4.

**Plants,**

Certified, revocation of certificate, 118e, § 9.

Importation, 118e, § 9.

Potatoes, sweet, plants, certification, 118e, § 7.

Tomatoes, plants, certification, 118e, § 2.

**VENDING MACHINES**

Corporations, creation for purpose of owning, selling or hiring, 1302, par. 108.

**VENEREAL DISEASES****Medical examination,**

Certificate of freedom from, 4445, § 4.

Convicted prostitutes or vagrants, 4445, § 3.

Quarantine, 4445, § 4.

Infected persons, place, 4445, § 3.

**VENUE**

Bonds, depositories', State University for Negroes, 2643e, § 2.

Citrus Commission Act, 118d, § 6.

Game laws and regulations, suits to test validity, PC 978n—1, § 12.

**Plea of privilege,**

Appeal, (RCP) Rule 385.

Hearing, exception, (RCP) Rule 84.

**VERIFICATION**

Pleas to be verified, (RCP) Rule 93.

Statement describing obedience, child support order, not required, (RCP) Rule 308—A.

**VESSELS**

Agents, 5500.

Supplies, repairs, etc., authority to procure, 5500.

**VETERANS**

Deceased indigent veterans, commissioners courts, authority to purchase burial ground, 2372i.

Minors, removal of disabilities of honorably discharged minor, 5921a.

**VETERANS COUNTY SERVICE OFFICE**

Creation, appointment, term and qualifications, etc., of officer, 5798a—2.

**VETERAN'S LAND BOARD**

Beneficiaries of law, information to be submitted to board, 5421m, § 15.

**Bonds,**

Issuance, 5421m, § 3.

Proceeds of sale, disposition, 5421m, § 8.

Sale price not less than par, 5421m, § 7.

Death of purchaser of land, effect, 5421m, § 20.

Default by purchaser in paying interest or principal, 5421m, § 19.

Employees, compensation, 5421m, § 26.

**Fund,**

Money set aside from to pay interest on bonds, 5421m, § 9.

Proceeds of bonds payable into, 5421m, § 2.

Use for purchase of land, etc., for sale to veterans, 5421m, § 10.

Lease of land by board, 5421m, § 22.

Meetings, organization, etc., 5421m, § 25.

Notice of sale of bonds, publication, 5421m, § 6.

Oil and gas lease executed by veteran purchaser, 5421m, § 18.

Partial invalidity of act, 5421m, § 28.

Preferential right to purchase bonds, 5421m, § 5.

**Purchase of land,**

By veterans, 5421m, § 16.

Duties of board respecting, 5421m, § 11.

Recording of sales of land by board, 5421m, § 17.

Refunding bonds, 5421m, § 4.

Rules and regulations, 5421m, § 21.

Sale of land, selling price, 5421m, § 13.

State agency, functions, 5421m, § 2.

Subdivision of land acquired by board, 5421m, § 12.

Supplies, purchase through Board of Control, 5421m, § 24.

Unsold lands, disposition, 5421m, § 23.

Veteran defined, 5421m, § 14.

**VETERANS ORGANIZATIONS**

Labor agency law, exception, 5221a—5, § 2.

Private employment agency law, exception, 5221a—6, § 2.

**WACO STATE HOME**

Name changed, 3174a.

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**WAIVER**

Notice of telephone cooperative corporation's meetings, 1528c, § 13.

**WAREHOUSE RECEIPTS**

Intoxicating liquor, sale of receipts by financial institution on death of permittee or licensee, etc., PC 666—13.

**WAREHOUSEMEN**

Antifreeze regulations, excepted, 165—6, § 8.

**WARRANTS**

Independent school districts, districts in counties of more than 18,975 and less than 19,025, 2790d—8.

Time Warrants, this index.

**WASHINGTON STATE PARK**

State Parks Board, custody, 6067a.

**WASTE**

Defined, 978n—1, § 5.

Underground water conservation district, 7880—3c.

**WATER**

Commissioners' Courts' power to sell, 2351, § 20.

**WATER COMPANIES**

Mains, types, etc., power to lay in roads, streets, etc., 1433.

Notice, State Highway Commission, commissioners' court, etc., intention of laying mains, 1433.

Occupation taxes, 7060½.

**WATER CONTROL AND IMPROVEMENT DISTRICTS**

Annexation of territory by city involved in consolidation, 1182c—1, §§ 1-7.

Assumption of bonded indebtedness by city annexing territory of district, 8280—2, § 4.

**Bonds,**

Election to assume bonded indebtedness of district annexed to city, 8280—2, § 4.

Liability of city lands, removal from district taxation, 8280—4.

Taxation of lands in incorporated cities withdrawn from district to pay debts, 8280—2.

Boundaries, orders enlarging, certain counties, 7880—75c.

Commissioners' Courts' power to sell water to, 2351, § 20.

**Contracts,**

Annexation of territory by cities involved in consolidation, 1182c—1, § 2.

Directors, Matagorda County Water Control and Improvement District No. 1, foll 8197f note.

Eastland County, foll. 8197f.

**Elections,**

Assume bonds of district annexed to city, 8280—2, § 4.

Incorporated cities, exclusion of land in cities from districts, 8280—2.

Matagorda County Water Control and Improvement District No. 1, validation and governing body, foll 8197f note.

**Sale of,**

Properties, annexation of territory by city involved in consolidation, 1182c—1, § 2.

**Taxation,**

Land in incorporated cities withdrawn from district to pay debts, 8280—2.

Removal of city lands, 8280—4.

Urban property, exclusion, procedure, 8280—3.

Underground water conservation districts, creation, powers, etc., 7880—3c.

**Validation,**

Enlargement of boundaries, certain districts, 7880—75c.

Matagorda County Water Control and Improvement District No. 1, foll. 8197f note.

Withdrawal of lands in incorporated city from district, 8280—2.

**WATER IMPROVEMENT DISTRICTS**

Assumption of bonded indebtedness by city annexing territory or district, 8280—2, § 4.

**Bonds,**

Election to assume bonds of district annexed to city, 8280—2, § 4.

Liability of city lands, removal from district taxation, 8280—4.

Taxation of lands in incorporated cities withdrawn from district to pay bonded debts, 8280—2.

Composition of indebtedness. covenants restricting additional indebtedness and taxes validated, 7807n.

**Election,**

Assuming bonds of district annexed to city, 8280—2, § 4.

Incorporated cities, exclusion of land in city from district, 8280—2.

**WATER IMPROVEMENT DISTRICTS (Cont'd)****Taxation,**

Land in incorporated city withdrawn from district to pay debts, 8280—2.

Removal of city lands, 8280—4.

Validation, covenants respecting additional indebtedness and taxes in plans for composition of indebtedness, etc., 7807n.

Withdrawal of land in incorporated cities from district, 8280—2.

**WATERS AND WATER COURSES**

Beds and bottoms, abandoned, grant to adjacent landowners, counties of 350,000, 7467b.

Interstate Compact, generally, this index.

Pecos River Compact, 7466f.

Rates, commissioners' courts' power to fix rates for water sold by commissioners, 2351, § 20.

**State Board of Water Engineers,**

Huntsville State Park, permit for dam, 6077p.

Storm waters, transmission or storage, 7467b.

**WATERWORKS AND WATER SUPPLY****Cities, towns and villages,**

Contracts with water improvement or water control and improvement districts authorized, 1109e.

Notice, laying of water mains outside city limits, 1433a.

Relocation of mains, etc., at city's expense for road widening outside city limits, 1433a.

Water mains, laying outside city limits, authority, 1433a.

Gross receipt taxes, 7060½.

Occupation taxes, 7060½.

**WATER WORKS COMPANIES**

Gross receipt taxes, 7060½.

Occupation taxes, 7060½.

**WEAPONS**

Escape from prison, punishment for use of deadly weapon, PC 353b.

Unlawful carrying, felon, PC 489c.

**WEAVER H. BAKER MEMORIAL TUBERCULOSIS SANATORIUM**

Name changed, 3174a.

**WEAVER H. BAKER TUBERCULOSIS SANATORIUM**

Texas State Hospitals and Special Schools as including, 3174b, § 3.

**WEIGHTS AND MEASURES**

Gas, standard gas measurement law, 6066b.

**WELLS**

Abandonment, filling or plugging, PC 1721, § 1a.

Cover required, PC 1721, § 1.

Protection against contamination, 4477—1, § 7.

**WEST TEXAS STATE COLLEGE AT CANYON**

Airport, ownership and operation authorized, federal aid, 2919c.

Name changed from West Texas State Teachers College at Canyon, 2647d.

**WEST TEXAS STATE TEACHERS COLLEGE AT CANYON**

Name changed to West Texas State College at Canyon, 2647d.

**WHEELER COUNTY**

Wild life resources, regulation and conservation, PC 978n—1.

**WICHITA FALLS STATE HOSPITAL**

Aged feeble-minded, Board of Control authorized to establish division for treatment of, 3263c, § 5.

Name changed, 3174a.

Texas State Hospitals and Special Schools as including, 3174b, § 3.



**WIDOWS**

Veterans of Texas Revolution, pensions, 6227a.

**WILD LIFE RESOURCES**

Fine, PC 978n—1, § 15.

**WILLACY COUNTY**

County court, jurisdiction, 199(107), § 5a.

**WILLS**

Husband and wife, wife principal beneficiary, pretermitted unborn children, 8293.

Posthumous child, wife principal beneficiary, effect, 8293.

**WINE ONLY PACKAGE STORE PERMIT**

Holder of authorized to hold also local cartage permit, PC 666—52.

**WITNESSES**

Attendance,

Legislative council, 5429b, § 5.

Dental examiners, corroboration unnecessary, PC 754b.

Depositions, (RCP) Rule 202.

Examination,

Contempt proceeding, child support cases, (RCP) Rule 308—A.

Legislative council, 5429b, § 5.

Fees,

Legislative council, 5429b, § 5.

Mileage,

Legislative council, 5429b, § 5.

**WOOD COUNTY**

Apportionment, judicial districts, 199(115).

Governor Hogg Memorial Shrine,

Custody, State Parks Board, 6067a.

Oil and gas leases, 6077o.

**WORDS AND PHRASES**

Board, 1528c, § 2.

Carbon black, 7047o.

Corporation, 1528c, § 2.

Depletion, PC 978n—1, § 4.

Distributor, 7047(41.a).

Federal agency, 1528c, § 2.

First sale, PC 666—21½.

Gross receipts of sale, 7047l, § 1½.

Market values, 7047o.

Member, 1528c, § 2.

Motor vehicles, 7047k—1, § 3.

Person, 1528c, § 2; 7060b.

Sulphur producers' occupation tax law, 7047n.

Retail sale, 7047k—1, § 3; 7047l, § 1½.

Rural area, 1528c, § 2.

Sales, 7047k—1, § 3.

Story, 3959.

Telephone service, 1528c, § 2.

Value of gas, 7047b, § 1½.

Waste, PC 978n—1, § 5.

**WORK AND LABOR**

Action on account for, prima facie evidence, (RCP) Rule 185.

**WORKMAN**

Defined, workmen's compensation, 8309b.

**WORKMEN'S COMPENSATION**

Awards, injuries to county employees, 8309c.

Certified copies of award for injuries to county employees furnished on request by board, 8309c.

Evidence, awards or orders of board, admissibility, injuries to county employees, 8309c.

Industrial Accident Board, reports to, accidents by insured county employees, 8309c.

Reports,

Accidents to Industrial Accident Board, county employees, 8309c.

**WORKMEN'S COMPENSATION INSURANCE**

Counties, legislative power to authorize counties to provide insurance. Const. art. III, § 60.

County employees, 8309c.

Definitions, insurance of county employees, 8309c.

Liquefied petroleum gas licensee, 6053, § 11.

**WRITING**

Apportionment of senatorial and legislative districts by Legislative Redistricting Board, Const. art. III, § 28.

**WRITS**

Lubbock County Court at Law, power to issue, 1970—340, § 16.

**YOUTH DEVELOPMENT COMMISSION**

Delinquent children, transfer of mentally ill, feeble-minded and epileptics, 5143c, § 32.

**YOUTH DEVELOPMENT COUNCIL**

Biennial budget, 5143c, § 38.

Commitment,

Civil rights not terminated, 5143c, § 34.

Diagnosis and treatment of children, 5143c, §§ 17—19.

Juvenile courts, 5143c, §§ 12—15.

Definitions, 5143c, § 3.

Delinquent children,

Religious training, 5143c, § 25.

Schools and facilities for, 5143c, §§ 20—22, 26—28.

Supervision, 5143c, §§ 26, 29.

Termination of control, 5143c, § 33.

Escape and apprehension, 5143c, § 31.

Assisting escape, 5143c, § 37.

Establishment, organization and general functions, 5143c, §§ 4—11.

Probation service, 5143c, §§ 16, 29.

Records, 5143c, § 35.

Superintendents, appointment, salary, duties, 5143c, §§ 21, 23, 24.

END OF VOLUME