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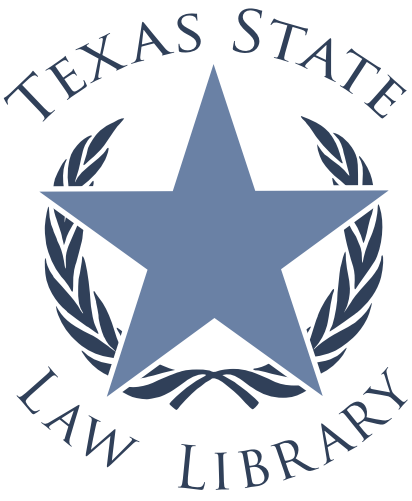
1954 Supplement
to
Vernon's Texas Statutes 1948



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VERNON'S TEXAS STATUTES
1954 SUPPLEMENT

Including General and Permanent Laws,
53rd Legislature, Regular Session

TABLES and INDEX

Supplementing
Vernon's Texas Statutes 1948
Vernon's Texas Statutes 1950 and 1952 Supplements

KANSAS CITY, MO.
VERNON LAW BOOK COMPANY

1954 SUPPLEMENT

This Supplement to **Vernon's Texas Statutes** includes the laws of a general and permanent nature enacted at the Regular Session of the 53rd Legislature. It directly supplements the 1948 Edition and the earlier 1950 and 1952 Supplements.

The Regular Session of the 53rd Legislature convened January 13, 1953, and adjourned May 27, 1953.

Important new laws, among others, included in this Supplement relate to —

Workmen's Compensation for Municipal Employees
Insurable Interest Under Life Policies
Venue in Negligence Cases
Small Claims Courts in Counties
Licensing of Veterinarians
Texas Turnpike Authority
Gas Conservation Cooperative Agreements

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

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

VERNON LAW BOOK COMPANY

January, 1954

Cite This Book by Article

Vernon's Texas Civ. St., 1954 Supp. Art. —.

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MEADE F. GRIFFIN, Associate Justice
ROBERT W. CALVERT, Associate Justice
CLYDE E. SMITH, Associate Justice
WILL WILSON, Associate Justice
FRANK P. CULVER, Jr., Associate Justice
GEORGE H. TEMPLIN, Clerk
CARL B. LYDA, Chief Deputy Clerk

COURT OF CRIMINAL APPEALS

HARRY N. GRAVES, Presiding Judge

K. K. WOODLEY, Judge
W. A. MORRISON, Judge
LLOYD W. DAVIDSON, Commissioner
ERNEST BELCHER, Commissioner
GLENN HAYNES, Clerk
VERNER STOHL, Secretary and Bailiff

COURTS OF CIVIL APPEALS

First District—Galveston

W. P. HAMBLEN, Chief Justice

GEORGE W. GRAVES, Associate Justice
T. H. CODY, Associate Justice
RALPH W. RICHESON, Clerk

Second District—Fort Worth

FRANK A. MASSEY, Chief Justice

BEN W. BOYD, Associate Justice
THOMAS J. RENFRO, Associate Justice
MRS. K. M. BURKHALTER, Clerk
LIDA SWANSON, 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

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Fifth District—Dallas

DICK DIXON, 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

HERBERT C. MARTIN, ASSOCIATE JUSTICE

ERNEST O. NORTHCUTT, ASSOCIATE JUSTICE

ELMO PAYNE, CLERK

Eighth District—El Paso

R. W. HAMILTON, CHIEF JUSTICE

ALAN N. FRASER, ASSOCIATE JUSTICE — JOSEPH McGILL, ASSOCIATE JUSTICE

E. J. REDDING, CLERK

Ninth District—Beaumont

R. L. MURRAY, CHIEF JUSTICE

JOHN R. ANDERSON, ASSOCIATE JUSTICE — CHARLES B. WALKER, ASSOCIATE JUSTICE

ELIZABETH LEBLANC, CLERK

Tenth District—Waco

FRANK J. McDONALD, CHIEF JUSTICE

JAKE TIREY, ASSOCIATE JUSTICE — JOSEPH W. HALE, ASSOCIATE JUSTICE

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Eleventh District—Eastland

CLYDE GRISSOM, CHIEF JUSTICE

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PRICE DANIEL, ATTORNEY GENERAL

CHARLES D. MATHEWS, FIRST ASSISTANT

CHARLES E. CRENSHAW, EXECUTIVE ASSISTANT

DAVID B. IRONS, ADMINISTRATIVE ASSISTANT

OFFICIALS
OF
THE STATE OF TEXAS

ALLAN SHIVERS	Governor	Port Arthur
BEN RAMSEY	Lieutenant Governor	San Augustine
JOHN BEN SHEPPERD	Attorney General	Gladewater
HOWARD CARNEY	Secretary of State	Atlanta
JESSE JAMES	State Treasurer	Austin
JOHN C. WHITE	Commissioner of Agriculture	Wichita Falls
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 ---------- Rogers Kelley
PRESIDENT PRO TEMPORE, to serve between sessions ---------- Jimmy Phillips
SECRETARY OF THE SENATE ---------- Mrs. Loyce M. Bell

Name		*District*
Aikin, A. M., Jr.	Paris	1
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HOUSE OF REPRESENTATIVES

SPEAKER ---------- Reuben E. Senterfitt

CHIEF CLERK ---------- Clarence Jones

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*Resigned.

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*Resigned.

HOUSE OF REPRESENTATIVES

Name		*District*
Maverick, Maury, Jr.	San Antonio	68 Pl. 2
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HOUSE OF REPRESENTATIVES

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Wohlford, Sam E.	Stratford	95
Wood, Bill	Tyler	15f
Wright, T. B.	Bonham	24
Yancy, James W., Jr.	Houston	22 Pl. 6
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CONSTITUTION OF THE STATE OF TEXAS

ADOPTED

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec. 50a.

The Legislature shall create a State Medical Education Board to be composed of not more than six (6) members whose qualifications, duties and terms of office shall be prescribed by law. The Legislature shall also establish a State Medical Education Fund and make adequate appropriations therefor to be used by the State Medical Education Board to provide grants, loans or scholarships to students desiring to study medicine and agreeing to practice in the rural areas of this State, upon such terms and conditions as shall be prescribed by law. The term "rural areas" as used in this Section shall be defined by law. Sec. 50a, Art. 3, adopted Nov. 4, 1952.

Sec. 61

The Legislature shall have the power to enact laws to enable cities, towns, and villages of this State to provide Workmen's Compensation Insurance, including the right to provide their own insurance risk for all employees; and the Legislature shall provide suitable laws for the administration of such insurance in the said municipalities and for payment of the costs, charges, and premiums on policies of insurance and the benefits to be paid thereunder. Sec. 61, Art. 3, adopted Nov. 4, 1952.

PROPOSED AMENDMENT

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec. 24.

Members of the Legislature shall receive from the public Treasury a per diem of not exceeding Twenty-five ($25.00) Dollars per day for the first 120 days only of each session of the legislature.

In addition to the per diem the members of each House shall be entitled to mileage in going to and returning from the seat of government, which mileage shall not exceed $2.50 for every 25 miles, the distance to be computed by the nearest and most direct route of travel, from a table of distances prepared by the Comptroller, to each county seat now or hereafter to be established; no member to be entitled to mileage for any extra session that may be called within one day after the adjournment of a regular or called session.

Proposed by Senate Joint Resolution No. 5, Acts 1953, 53rd Leg., p. 1167. For submission to the people Nov. 2, 1954.

Sec. 51a.

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

(1) Needy aged persons who are actual bona fide citizens of Texas and who are over the age of sixty-five (65) years; provided that no such assistance shall be paid to any inmate of any State supported institution, while such inmate, or to any person who shall not have actually resided in Texas for at least five (5) years during the nine (9) years immediately preceding the application for such assistance and continuously for one (1) year immediately preceding such application; provided that the maximum payment per month from State funds shall not be more than Twenty ($20.00) Dollars per month.

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

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

The Legislature shall have the authority to accept from the Federal government of the United States such financial aid for the assistance of the needy aged, needy blind, and needy children as such government may offer not inconsistent with restrictions herein set forth; provided however, that the amount of such assistance out of State funds to each person assisted shall never exceed the amount so expended out of Federal funds; and provided further, that the total amount of money to be expended out of State funds for such assistance to the needy aged, needy blind, and needy children shall never exceed the sum of Forty-two Million ($42,000,000.00) Dollars per year.

Proposed by Senate Joint Resolution No. 7, Acts 1953, 53rd Leg., p. 1170. For submission to the people Nov. 2, 1954.

Sec. 51-b.

(a) The State Building Commission is hereby created. Its membership shall consist of the Governor, the Attorney General and the Chairman of the Board of Control. The Legislature may provide by law for some other State official to be a member of this Commission in lieu of the Chairman of the Board of Control, and in the event said State official has not already been confirmed by the Senate as such State official he shall be so confirmed as a member of the State Building Commission in the same manner that other State officials are confirmed.

(b) The State Building Fund is hereby created. On or before the first day of January following the adoption of this amendment, and each year thereafter, the Comptroller of Public Accounts shall certify to the State Treasurer the amount of money necessary to pay Confederate pensions for the ensuing calendar year as provided by the constitution and laws of this State. Thereupon each year the State Treasurer shall transfer forthwith from the Confederate Pension Fund to the State Building Fund all money except that needed to pay the Confederate pensions as certified by the Comptroller. This provision is self-enacting. The State Building Fund shall be expended by the Commission upon appropriation by the Legislature for the uses and purposes set forth in subdivision (c) hereof.

(c) Under such terms and conditions as are now or may be hereafter provided by law, the Commission may acquire necessary real and personal property, salvage and dispose of property unsuitable for State purposes, modernize, remodel, build and equip buildings for State purposes, and negotiate and make contracts necessary to carry out and effectuate the purposes herein mentioned.

The first major structure erected from the State Building Fund shall be known and designated as a memorial to the Texans who served in the Armed Forces of the Confederate States of America, and shall be devoted to the use and occupancy of the Supreme Court and such other courts and State agencies as may be provided by law. The second major structure erected from the State Building Fund shall be a State office building and shall be used by whatever State agencies as may be provided by law.

Under such terms and conditions as are now or may hereafter be provided by law, the State Building Commission may expend not exceeding five (5%) percent of the moneys available to it in any one year, for the purpose of erecting memorials to the Texans who served in the Armed Forces of the Confederate States of America. Said memorials may be upon battlefields or other suitable places within or without the boundaries of this State. The authorization for expenditures for memorials herein mentioned shall cease as of December 31, 1965.

Under such terms and conditions as are now or may hereafter be permitted by law, the State Building Commission may expend not exceeding Thirty Thousand ($30,000.00) Dollars in the aggregate for the purpose of erecting memorials to the Texans who served in the Armed Forces of the Republic in the Texas War for Independence. Said memorials may be erected upon battlefields, in cemeteries, or other suitable places within or without the boundaries of this State. The authorization for expenditures for memorials herein mentioned shall cease as of December 31, 1965.

(d) The State ad valorem tax on property of Two (2¢) Cents on the One Hundred ($100.00) Dollars valuation now levied under Section 51 of Article III of the Constitution as amended by Section 17, of Article VII (adopted in 1947) is hereby specifically levied for the purposes of

continuing the payment of Confederate pensions as provided under Article III, Section 51, and for the establishment and continued maintenance of the State Building Fund hereby created.

(e) Should the 53rd Legislature enact a law or laws in anticipation of the adoption of this amendment, such shall not be invalid by reason of their anticipatory character.

Proposed by Senate Joint Resolution No. 10, Acts 1953, 53rd Leg., p. 1172. For submission to the people Nov. 2, 1954.

Sec. 51g.

The Legislature shall have the power to pass such laws as may be necessary to enable the State to enter into agreements with the Federal Government to obtain for proprietary employees of its political subdivisions coverage under the old-age and survivors insurance provisions of Title II of the Federal Social Security Act as amended. The Legislature shall have the power to make appropriations and authorize all obligations necessary to the establishment of such Social Security coverage program.

Proposed by House Joint Resolution No. 37, Acts 1953, 53rd Leg., p. 1178. For submission to the people Nov. 2, 1954.

Sec. 52–b.

The Legislature shall have no power or authority to in any manner lend the credit of the State or grant any public money to, or assume any indebtedness, present or future, bonded or otherwise, of any individual, person, firm, partnership, association, corporation, public corporation, public agency, or political subdivision of the State, or anyone else, which is now or hereafter authorized to construct, maintain or operate toll roads and turnpikes within this State.

Proposed by Senate Joint Resolution No. 14, Acts 1953, 53rd Leg., p. 1174. For submission to the people Nov. 2, 1954.

Sec. 61.

The Legislature shall not fix the salary of the Governor, Attorney General, Comptroller of Public Accounts, the Treasurer, Commissioner of the General Land Office or Secretary of State at a sum less than that fixed for such officials in the Constitution on January 1, 1953.

Proposed by Senate Joint Resolution No. 5, Acts 1953, 53rd Leg., p. 1167. For submission to the people Nov. 2, 1954.

ARTICLE IV

EXECUTIVE DEPARTMENT

Sec. 5.

The Governor shall, at stated times, receive as compensation for his services an annual salary in an amount to be fixed by the Legislature, and shall have the use and occupation of the Governor's Mansion, fixtures and furniture.

Proposed by Senate Joint Resolution No. 5, Acts 1953, 53rd Leg., p. 1167. For submission to the people Nov. 2, 1954.

Sec. 21.

There shall be a Secretary of State, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and who shall continue in office during the term of service of the Governor. He shall authenticate the publication of the laws, and keep a fair register of all official acts and proceedings of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto, before the Legislature, or either House thereof, and shall perform such other duties as may be required of him by law. He shall receive for his services an annual salary in an amount to be fixed by the Legislature.

Proposed by Senate Joint Resolution No. 5, Acts 1953, 53rd Leg., p. 1167. For submission to the people Nov. 2, 1954.

Sec. 22.

The Attorney General shall hold office for two years and until his successor is duly qualified. He shall represent the State in all suits and pleas in the Supreme Court of the State in which the State may be a party, and shall especially inquire into the charter rights of all private corporations, and from time to time, in the name of the State, take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight or wharfage not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice in writing to the Governor and other executive officers, when requested by them, and perform such other duties as may be required by law. He shall reside at the seat of government during his continuance in office. He shall receive for his services an annual salary in an amount to be fixed by the Legislature.

Proposed by Senate Joint Resolution No. 5, Acts 1953, 53rd Leg., p. 1167. For submission to the people Nov. 2, 1954.

Sec. 23.

The Comptroller of Public Accounts, the Treasurer, and the Commissioner of the General Land Office shall each hold office for the term of two years and until his successor is qualified; receive an annual salary in an amount to be fixed by the Legislature; reside at the Capital of the State during his continuance in office, and perform such duties as are or may be required by law. They and the Secretary of State shall not receive to their own use any fees, costs or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this section or in his office, shall be paid, when received, into the State Treasury.

Proposed by Senate Joint Resolution No. 5, Acts 1953, 53rd Leg., p. 1167. For submission to the people Nov. 2, 1954.

ARTICLE V

JUDICIAL DEPARTMENT

Sec. 9.

There shall be a Clerk for the District Court of each county, who shall be elected by the qualified voters for State and county officers, and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury, and conviction of a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a Clerk, who shall hold until the office can be filled by election.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

Sec. 15.

There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for four years, and until his successor shall be elected and qualified. He shall receive as compensation for his services such fees and perquisites as may be prescribed by law.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

Sec. 18.

Each organized county in the State now or hereafter existing, shall be divided from time to time, for the convenience of the people, into precincts, not less than four and not more than eight. Divisions shall be made by the Commissioners Court provided for by this Constitution. In each such precinct there shall be elected one Justice of the Peace and one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in any precinct in which there may be a city of 8,000 or more inhabitants, there shall be elected two Justices of the Peace. Each county shall in like manner be divided into four commissioners precincts in each of which there shall be elected by the qualified voters thereof one County Commissioner, who shall hold his office for four years and until his successor shall be elected and qualified. The County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

Sec. 20.

There shall be elected for each county, by the qualified voters, a County Clerk, who shall hold his office for four years, who shall

be clerk of the County and Commissioners Courts and recorder of the county, whose duties, perquisites and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Commissioners Court, until the next general election; provided, that in counties having a population of less than 8,000 persons there may be an election of a single Clerk, who shall perform the duties of District and County Clerks.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

Sec. 21.

A County Attorney, for counties in which there is not a resident Criminal District Attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the Governor, and hold his office for the term of four years. In case of vacancy the Commissioners Court of the county shall have the power to appoint a County Attorney until the next general election. The County Attorneys shall represent the State in all cases in the District and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a District Attorney, the respective duties of District Attorneys and County Attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of District Attorneys in such districts, as may be deemed necessary, and make provision for the compensation of District Attorneys and County Attorneys. District Attorneys shall hold office for a term of four years, and until their successors have qualified.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

Sec. 23.

There shall be elected by the qualified voters of each county a Sheriff, who shall hold his office for the term of four years, whose duties and perquisites, and fees of office, shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the Commissioners Court until the next general election.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

Sec. 30.

The Judges of all Courts of county-wide jurisdiction heretofore or hereafter created by the Legislature of this State, and all Criminal District Attorneys now or hereafter authorized by the laws of this State, shall be elected for a term of four years, and shall serve until their successors have qualified.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

ARTICLE VI

SUFFRAGE

Sec. 1.

The following classes of persons shall not be allowed to vote in this State, to wit:

First: Persons under twenty-one (21) years of age.

Second: Idiots and lunatics.

Third: All paupers supported by any county.

Fourth: All persons convicted of any felony, subject to such exceptions as the Legislature may make.

Proposed by House Joint Resolution No. 10, Acts 1953, 53rd Leg., p. 1176. For submission to the people Nov. 2, 1954.

Sec. 2.

Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States and who shall have resided in this State one (1) year next preceding an election and the last six (6) months within the district or county in which such person offers to vote, shall be deemed a qualified elector; and provided further, that any voter who is subject to pay a poll tax under the laws of the State of Texas shall have paid said tax before offering to vote at any election in this State and hold a receipt showing that said poll tax was paid before the first day of February next preceding such election. Or if said voter shall have lost or misplaced said tax receipt, he or she, as the case may be, shall be entitled to vote upon making affidavit before any officer authorized to administer oaths that such tax receipt has been lost. Such affidavit shall be made in writing and left with the judge of the election. The husband may pay the poll tax of his wife and receive the receipt therefor. In like manner, the wife may pay the poll tax of her husband and receive the receipt therefor. The Legislature may authorize absentee voting. And this provision of the Constitution shall be self-enacting without the necessity of further legislation. Any member of the Armed Forces of the United States or component branches thereof, or in the military service of the United States, may vote only in the county in which he or she resided at the time of entering such service so long as he or she is a member of the Armed Forces.

Proposed by House Joint Resolution No. 10, Acts 1953, 53rd Leg., p. 1176. For submission to the people Nov. 2, 1954.

Sec. 2a. Repealed.

Proposed by House Joint Resolution No. 10, Acts 1953, 53rd Leg., p. 1176. For submission to the people Nov. 2, 1954.

ARTICLE VIII

TAXATION AND REVENUE

Sec. 14.

Except as provided in Section 16 of this Article, there shall be elected by the qualified voters of each county, an Assessor and

Collector of Taxes, who shall hold his office for four years and until his successor is elected and qualified; and such Assessor and Collector of Taxes shall perform all the duties with respect to assessing property for the purpose of taxation and of collecting taxes, as may be prescribed by the Legislature.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

Sec. 16.

The Sheriff of each county, in addition to his other duties, shall be the Assessor and Collector of Taxes therefor; but, in counties having 10,000 or more inhabitants, to be determined by the last preceding census of the United States, an Assessor and Collector of Taxes shall be elected as provided in Section 14 of this Article, and shall hold office for four years and until his successor shall be elected and qualified.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

Sec. 16a.

In any county having a population of less than ten thousand (10,000) inhabitants, as determined by the last preceding census of the United States, the Commissioners Court may submit to the qualified property taxpaying voters of such county at an election the question of adding an Assessor-Collector of Taxes to the list of authorized county officials. If a majority of such voters voting in such election shall approve of adding an Assessor-Collector of Taxes to such list, then such official shall be elected at the next General Election for such Constitutional term of office as is provided for other Tax Assessor-Collectors in this State.

Proposed by House Joint Resolution No. 8, Acts 1953, 53rd Leg., p. 1175. For submission to the people Nov. 2, 1954.

ARTICLE IX

COUNTIES

Sec. 4.

The Legislature may by law authorize the creation of county-wide Hospital Districts in counties having a population in excess of 190,000 and in Galveston County, with power to issue bonds for the purchase, acquisition, construction, maintenance and operation of any county owned hospital, or where the hospital system is jointly operated by a county and city within the county, and to provide for the transfer to the county-wide Hospital District of the title to any land, buildings or equipment, jointly or separately owned, and for the assumption by the district of any outstanding bonded indebtedness theretofore issued by any county or city for the establishment of hospitals or hospital facilities; to levy a tax not to exceed seventy-five ($.75) cents on the One Hundred ($100.00) Dollars valuation of all taxable property within such district, provided, however, that such district shall be approved at an election held for that purpose, and that only qualified, property taxpaying

voters in such county shall vote therein; provided further, that such Hospital District shall assume full responsibility for providing medical and hospital care to needy inhabitants of the county, and thereafter such county and cities therein shall not levy any other tax for hospital purposes; and provided further that should such Hospital District construct, maintain and support a hospital or hospital system, that the same shall never become a charge against the State of Texas, nor shall any direct appropriation ever be made by the Legislature for the construction, maintenance or improvement of the said hospital or hospitals. Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be invalid because of their anticipatory character.

Proposed by Senate Joint Resolution No. 2, Acts 1953, 53rd Leg., p. 1163. For submission to the people Nov. 2, 1954.

ARTICLE XVI

GENERAL PROVISIONS

Sec. 19.

The Legislature shall prescribe by law the qualifications of grand and petit jurors; provided that neither the right nor the duty to serve on grand and petit juries shall be denied or abridged by reason of sex. Whenever in the Constitution the term "men" is used in reference to grand or petit juries, such term shall include persons of the female as well as the male sex.

Proposed by House Joint Resolution No. 16, Acts 1953, 53rd Leg., p. 1177. For submission to the people Nov. 2, 1954.

Sec. 44.

The Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a County Treasurer and a County Surveyor, who shall have an office at the county seat, and hold their office for four years, and until their successors are qualified; and shall have such compensation as may be provided by law.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

Sec. 63.

Qualified members of the Teacher Retirement System, in addition to the benefits allowed them under the Teacher Retirement System shall be entitled to credit in the Teacher Retirement System for all services, including prior service and membership service, earned or rendered by them as an appointive officer or employee of the State. Likewise, qualified members of the Employees Retirement System of Texas, in addition to the benefits allowed them under the Employees Retirement System of Texas shall be entitled to credit in the Employees Retirement System of Texas for all services, including prior service and membership service, earned or rendered by them as a teacher or person employed in the public schools, colleges, and universities supported wholly or partly by the State.

Proposed by Senate Joint Resolution No. 6, Acts 1953, 53rd Leg., p. 1169. For submission to the people Nov. 2, 1954.

Sec. 64.

The office of Inspector of Hides and Animals, the elective district, county and precinct offices which have heretofore had terms of two years, shall hereafter have terms of four years; and the holders of such offices shall serve until their successors are qualified.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

Sec. 65.

The following officers elected at the general election in November, 1954, and thereafter, shall serve for the full terms provided in this Constitution:

(a) District Clerks; (b) County Clerks; (c) County Judges; (d) Judges of County Courts-at-Law, County Criminal Courts, County Probate Courts, and County Domestic Relations Courts; (e) County Treasurers; (f) Criminal District Attorneys; (g) County Surveyors; (h) Inspectors of Hides and Animals; (i) County Commissioners for Precincts Two and Four; (j) Justices of the Peace.

Notwithstanding other provisions of this Constitution, the following officers elected at the general election in November, 1954, shall serve only for terms of two years: (a) Sheriffs; (b) Assessors and Collectors of Taxes; (c) District Attorneys; (d) County Attorneys; (e) Public Weighers; (f) County Commissioners for Precincts One and Three; (g) Constables. At subsequent elections, such officers shall be elected for the full terms provided in this Constitution.

In any district, county or precinct where any of the aforementioned offices is of such nature that two or more persons hold such office, with the result that candidates file for "Place No. 1," "Place No. 2," etc., the officers elected at the general election in November, 1954, shall serve for a term of two years if the designation of their office is an uneven number, and for a term of four years if the designation of their office is an even number. Thereafter, all such officers shall be elected for the terms provided in this Constitution.

Proposed by Senate Joint Resolution No. 4, Acts 1953, 53rd Leg., p. 1164. For submission to the people Nov. 2, 1954.

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TITLE 4—AGRICULTURE AND HORTICULTURE

CHAPTER ONE—COMMISSIONER OF AGRICULTURE

Art. 52. Repealed Acts 1953, 53rd Leg., p. 31, ch. 25, § 1. Eff. 90 days after May 27, 1953, date of adjournment

Governing board of Agricultural and Mechanical College, see art. 2610.

CHAPTER TWO—STATE SEED AND PLANT BOARD

Art. 57. State Seed and Plant Board; membership; meetings; requiring applicant's appearance; prescribing inspectors' qualifications

The State Seed and Plant Board shall be composed, ex-officio, of the Chief of the Division of Seeds of the Texas Department of Agriculture, the Head of the Department of Genetics of the Agricultural and Mechanical College of Texas, and the Head of a department as designated by the Board of Directors of Texas Technological College. Said Board shall elect annually one of their number as chairman and another as secretary. The Board shall meet at such times and places as the chairman may order. All applicants for license as Registered Plant Breeder and Certified Seed Grower shall furnish such information as the Board may require and shall appear in person before said Board if the Board requests it. The Board shall prescribe the qualifications of inspectors that may be employed under this law. As amended Acts 1953, 53rd Leg., p. 502, ch. 180, § 1.

Emergency. Effective May 19, 1953.

Section 2 of the amendatory Act of 1953 provided that partial invalidity should not affect other parts of the Act.

CHAPTER FOUR—AGRICULTURAL SEEDS

Art. 93b. Texas Seed Law

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

(a) For Agricultural Seeds.

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

(2) Lot number or other lot identification.

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

(4) Percentage by weight of all weed seeds.

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

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

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

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

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

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

(7) Percentage by weight of inert matter.

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

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

(10) All fescue, certified or non-certified, must have shown on the tag that seed contains rye grass, if any, and the amount given in percentage. If no rye grass is found in the sample the tag shall state "None Found".

(b) For Vegetable Seeds.

(1) Name of kind and variety of seed.

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

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

(B) Percentage of hard seed, if present;

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

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

(3) Name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within the State. As amended Acts 1953, 53rd Leg., p. 744, ch. 292, § 1.

Inspection fee

Sec. 7. The vendor, before any agricultural seed or mixture of such seed are offered or exposed for sale, shall pay to the Commissioner of Agriculture, an inspection fee of not to exceed two cents (2¢) for each hundred (100) pounds or fraction thereof sold, or offered for sale, in this State and shall affix to each lot shipped in bulk, and to each bag, barrel, or other package of such seed, a tag to be furnished by said Commissioner, stating that all charges specified in this Act have been paid. The Commissioner is hereby empowered to prescribe the form of such tags. As amended Acts 1953, 53rd Leg., p. 744, ch. 292, § 2.

Miscellaneous

Sec. 10. All money received by the Commissioner of Agriculture through the administration of this Act shall be paid by him to the State Treasurer who shall deposit said money to the account of the Texas Seed Act, to be known as the Texas Seed Act Fund, which said account shall be a continuing fund and shall be used in the administration of the Texas Seed Act. The entire amount of said Texas Seed Act Fund, or so much thereof as may be necessary, is hereby appropriated to the State Department of Agriculture to be expended for the purposes specified in this Act, including the enforcement of the Act and the cost of collecting the fees. This appropriation shall not affect any other appropriations heretofore or hereafter made to the State Department of Agriculture, but shall be in addition thereto for the biennium ending August 31, 1955. Thereafter, the number of employees and the salaries and travel allowance of each shall be as fixed in the biennial appropriation bill. As amended Acts 1953, 53rd Leg., p. 744, ch. 292, § 4.

Effective 90 days after May 27, 1953, date of adjournment.

Section 4 of the amendatory Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict. Section 5 provided that partial unconstitutionality of the Act should not invalidate the remainder.

Art. 93c. Law not applicable to feed mixtures

This Act[1] shall not apply or be construed in such manner as to apply to any mixture or mixtures of any feed for livestock, swine or poultry or any other animals, birds, reptiles or fish upon the order or at the direction of an individual or association of individuals for

his or their use in feeding any one or more of the aforesaid livestock, swine, poultry, animals, birds, reptiles and fish. Acts 1953, 53rd Leg., p. 744, ch. 292, § 3A.

1 This article and art. 93b, §§ 3, 7, 10.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER SIX—FRUITS AND VEGETABLES

Art. 117a. Repealed. Acts 1953, 53rd Leg., p. 53, ch. 42, § 1. Eff. March 24, 1953

Art. 118a. Inspection and classification of citrus fruit

Law self-financing; agreements regarding contributions from dealers and shippers for inspection

Sec. 12. It is provided that this law shall be self financing, and that the Legislature shall make no appropriation for the enforcement thereof; the Commissioner of Agriculture is hereby authorized and empowered to enter into agreements with the United States Department of Agriculture relative to the amounts of contributions to be received from dealers and shippers for inspection and grading services under the terms and provisions of this Act; it is further provided that the Commissioner may, in his discretion, adopt rules and regulations relating to such inspection contributions which will, in effect, adopt the financing plan provided under the Cooperative Agreement, provided that the contribution shall be fixed as nearly as possible with reference to the cost of maintaining the expenses of inspecting and grading citrus fruits under the provisions and requirements of this Act and the Cooperative Agreement and the issuance of certificates with relation thereto; the amount of contribution for and in the case of each different commodity may be different, and in the case of each different service rendered on each such commodity, but shall in no case exceed the sum of One and one-half Cents (1½¢) for each one and three-fifths bushel box capacity or one and three-fifths bushel box equivalent when packed in other containers for inspection and grading service performed in a regular packing house operating under a duly issued permit. Any regular grading and inspection service performed outside of a packing shed operating under a duly issued permit shall be for an amount sufficient to cover the actual cost of such inspection and/or grading services; all contributions for inspection or grading services shall be paid and delivered to the inspector by the person packing or making the shipment prior to the delivery of the certificate of inspection; whenever any person so packing and/or shipping citrus fruit fails or refuses to pay the contribution prescribed for the services rendered, the inspector may and shall withhold delivery of the inspection certificate until the prescribed contribution is paid; no inspector, agent or employee shall charge or collect a greater sum than the prescribed contribution for the services rendered; all moneys contributed for services of inspection and/or grading under the terms and provisions of this Act shall be handled and disbursed under the terms of the Cooperative Agreement; the State Auditor where this Act is operative shall have access to the financial records, books, vouchers and reports of the Chief Inspector at all times, and shall have the authority to make an audit of such books, when, in his judgment, an audit shall be wise, and, upon written request of the Commissioner, the State Auditor shall audit

said books and make his report in writing to the Commissioner regarding the fiscal affairs of the contribution account. As amended Acts 1953, 53rd Leg., p. 53, ch. 43, § 1.

Emergency. Effective March 24, 1953.

Section 2 of the Act of 1953 related to the effect of partial invalidity.

Art. 118c—1. Tomato Standardization and Inspection Act

Inspection contributions

Sec. 10. It is provided that this law shall be self-financing and that the Legislature shall make no appropriation for the enforcement thereof; the Commissioner of Agriculture is hereby authorized and empowered to enter into agreements with the United States Department of Agriculture, relative to the amounts of contributions to be received from dealers and shippers for inspecting and grading services under the terms and provisions of this Act; it is further provided that the Commissioner may, in his discretion, adopt rules and regulations relating to such inspection contributions which will, in effect, adopt the financing plan provided under the Cooperative Agreement, provided that the contribution shall be fixed as nearly as possible with reference to the cost of maintaining the expenses of inspection and grading tomatoes under the Cooperative Agreement; the amount of contribution for each different service of an inspection and grading rendered may be different, but in no event shall the contribution for inspection of tomatoes exceed one and one-fourth cents (1¼¢) per thirty-pound lug or thirty-pound lug equivalent when packed in other containers for inspection or grading service rendered in a regular packing house, or at a regular loading point, it is specifically provided that any regular inspection or grading service made or performed at a point distant from a packing shed or loading point, shall be for an amount sufficient to cover the actual cost of such inspection and/or grading service; all contributions for inspection or grading services rendered shall be paid and delivered to the inspector by the person packing or making the shipment prior to the delivery of the certificate of inspection; whenever any person so packing and/or shipping tomatoes fails or refuses to pay the contribution prescribed for the services rendered, the inspector shall withhold delivery of the inspection certificate until the prescribed contribution is paid; no inspector, agent, or employee shall charge or collect a greater amount than the prescribed contribution for the services rendered; all moneys contributed for services of inspection and/or grading under the terms and provisions of this Act shall be handled and disbursed under the terms of the Cooperative Agreement; the State Auditor of any State, in which this Act is operative, shall have access to the financial records, books, vouchers, and reports of the chief inspector at all times and shall have the authority to make an audit of such books, when in his judgment, an audit shall be deemed wise, and, upon written request of the Commissioner, said State Auditor shall audit and make a report in writing to the Commissioner regarding the fiscal affairs of the contribution account. As amended Acts 1953, 53rd Leg., p. 69, ch. 51, § 1.

Emergency. Effective April 1, 1953.

Section 2 of the amendatory Act of 1953 provided that partial invalidity should not affect other parts of the Act.

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

Contributions for inspection and grading

Sec. 10. It is provided that this law shall be self-financing and that the Legislature shall make no appropriation for the enforcement thereof; the Commissioner is hereby authorized and empowered to enter

into agreements with the United States Department of Agriculture relative to the amounts of contribution to be received from dealers and shippers for inspecting and grading services under the terms and provisions of this Act; it is further provided that the Commissioner may, in his discretion, adopt rules and regulations relating to such inspection contributions which will, in effect, adopt the financing plan provided under the Cooperative Agreement, provided that the contribution shall be fixed as nearly as possible with reference to the cost of maintaining the expenses of inspection and grading cabbage under the Cooperative Agreement; the amount of contribution for each different service of any inspection and grading rendered may be different, but in no event shall the contribution for inspection of cabbage exceed Seven Dollars ($7) per car lot or car equivalent when shipped by truck or one and one-half cents (1½¢) per fifty-pound sack or fifty-pound sack equivalent for less than a car lot for inspection rendered in a regular packing house, or at a regular loading point, it is specifically provided that any regular inspection or grading service made or performed at a point distant from a packing shed or loading point, shall be for an amount sufficient to cover the actual cost of such inspection and/or grading service; all contributions for inspection or grading services rendered shall be paid and delivered to the inspector by the person packing or making the shipment prior to the delivery of the certificate of inspection; whenever any person so packing and/or shipping cabbage fails or refuses to pay the contribution prescribed for the services rendered, the inspector shall withhold delivery of the inspection certificate until the prescribed contribution is paid; no inspector, agent, or employee shall charge or collect a greater sum than the prescribed contribution for the services rendered; all moneys contributed for services of inspection and/or grading under the terms and provisions of this Act shall be handled and disbursed under the terms of the Cooperative Agreement; the State Auditor, where this Act is operative, shall have access to the financial records, books, vouchers, and reports of the State Administrative Officer at all times and shall have the authority to make an audit of such books, when in his judgment, an audit shall be deemed wise, and, upon written request of the Commissioner, said State Auditor shall audit and make his report in writing to the Commissioner regarding the fiscal affairs of the contribution account. As amended Acts 1953, 53rd Leg., p. 70, ch. 52, § 1.

Emergency. Effective April 1, 1953. Section 2 of the amendatory Act of 1953 provided that partial invalidity should not affect other parts of the Act.

Art. 118d. Texas Citrus Commission

Laws 1953, 53rd Leg., p. 724 ch. 282, read as follows:

"Section 1. The balances remaining on the effective date of this Act in the Agricultural and Mechanical College of Texas-Weslaco Experiment Station No. 15 Citrus Fund and the Texas College of Arts and Industries Citrus Fund are hereby transferred to the Texas Citrus Commission Fund. The funds referred to are those funds created by Chapter 93, House Bill No. 29, Acts, Fifty-first Legislature, Regular Session, 1949. [Art. 118d].

"Sec. 2. The Board of Control shall take possession of all personal property belonging to the Texas Citrus Commission and sell same in conformity with the provisions of Article 666 of the Revised Civil Statutes of Texas, 1925, as amended; provided, however, that the proceeds of such sale shall be credited to the Texas Citrus Commission Fund.

"Sec. 3. The total sum credited to the Texas Citrus Commission Fund is appropriated for the purposes provided in this Act.

"Sec. 4. Members of the Texas Citrus Commission, employees thereof, or their assignees, who have a claim against the Texas Citrus Commission for salaries for services rendered, or for reimbursement for travel expenses, and all other persons, corporations, and associations having claims against the Texas Citrus Commission for rentals due, services rendered, or property purchased prior to March 1, 1952, shall, within ninety (90) days after the effective date of this Act, file with the

Chairman of the Board of Control a sworn statement setting out the nature and amount of the claim.

"Sec. 5. The Chairman of the Board of Control shall investigate such claims and shall approve those which he determines to be valid obligations of the Texas Citrus Commission. The certificate of the Chairman of the Board of Control and the approval of the State Auditor shall be sufficient evidence to the Comptroller of the validity of such claims and he shall issue the necessary warrants therefor.

"Sec. 6. The Chairman of the Board of Control shall determine the identities and location of those persons, corporations, or associations which paid taxes to the State, under the provisions of Chapter 93, House Bill No. 29, Acts, Fifty-first Legislature, Regular Session, 1949, as amended, which have not been refunded to the taxpayer. He shall prorate the balance remaining in the Texas Citrus Commission Fund, after payment of the amounts required under Sections 4, 8, and 9 of this Act, among such taxpayers who have filed sworn statements with him within ninety (90) days after the effective date of this Act setting out the total sum paid to the Texas Citrus Commission in taxes which have not been refunded. The Chairman of the Board of Control shall prorate such balances among such taxpayers in proportion to the amount of the unrefunded taxes paid by each. He shall certify to the Comptroller a list of such taxpayers and the proportionate amount to be paid to each. Such certificate, and the approval thereof by the State Auditor, shall be sufficient authority to the Comptroller to issue warrants therefor.

"Sec. 7. The Attorney General and the State Auditor shall assist the Chairman of the Board of Control in carrying out the provisions of this Act.

"Sec. 8. Sufficient funds shall be transferred from the Texas Citrus Commission Fund to the State Auditor to reimburse the State Auditor for the actual cost of making audits of the accounts of the Texas Citrus Commission.

"Sec. 9. All necessary expenses of carrying out the provisions of this Act, including sale of property, travel expenses of the Chairman of the Board of Control, the Attorney General, and the State Auditor or their authorized representatives, shall be paid on the certificate of the Chairman of the Board of Control from the Texas Citrus Commission Fund."

Effective June 4, 1953.

CHAPTER SEVEN A—PLANT DISEASES AND PESTS

Art. 135b—3. Repealed. Acts 1953, 53rd Leg., p. 858, ch. 349, § 16. Eff. Sept. 1, 1953.

Article derived from Acts 1951, 52nd Leg., p. 681, ch. 394, and related to sale and application of herbicides.

Art. 135b—4. Sale, use and transportation of herbicides

Purpose

Section 1. The purpose of this Act is to regulate, through powers of regulation granted the State Department of Agriculture, under the police powers of the State of Texas, the sale, use and transportation of herbicides.

Definitions

Sec. 2. For the purposes of this Act:

(a) The term "herbicides" shall mean all hormone type herbicides, which is any substance or mixture of substances that produce a physiological change in any plant tissue without burning, such as 2, 4-D, 2, 4, 5-T, and their derivatives and used for the purpose of destroying, repelling or mitigating any weed.

(b) The term "weed" means any plant growing where not wanted.

(c) The term "person" means any individual, firm, partnership, association, corporation, company, joint stock association, or body politic, or any organized group of persons whether incorporated or not; and includes any trustee, receiver, assignee, or other similar representative thereof.

(d) The term "Commissioner" means the Commissioner of Agriculture of the State of Texas, his duly appointed agents, employees, and representatives.

(e) The term "County Herbicide Inspector" means any person or persons appointed by the Commissioners Court of any County or Counties to assist the Commissioner of Agriculture, his agents and employees in the enforcement of this Act and any regulations within the area for which such County Herbicide Inspector was appointed.

(f) The term "Dealer" means any person who sells, wholesales, distributes, offers or exposes for sale, exchanges, barters or gives away within or into this State any herbicides in containers of a net capacity of more than eight (8) ounces.

(g) The term "applier" means any person, his agents or employees, who applies herbicides to any of his land or plants.

(h) The term "custom applier" means any person who, by contract or otherwise, applies herbicides to any land or plants for hire.

(i) The term "equipment" means any device used to apply herbicides.

(j) The term "application" means the spreading of herbicides, by contract or otherwise, by or for any person owning or renting property having a continuous boundary line.

Dealers

Sec. 3. (a) It shall be unlawful for any person to be a dealer of herbicides in this State without first obtaining a license from the State Department of Agriculture.

(b) Upon application for a Dealers License, the applicant must pay a fee of not more than One Hundred Dollars ($100), the said fee to be determined by regulation of the State Department of Agriculture. Each warehouse or branch of an individual concern must pay a dealer's fee unless one head office keeps and reports satisfactory records for all subsidiary branches.

(c) All dealers must make a record of all sales of herbicides sold in containers having a net capacity of more than eight (8) fluid ounces, or its equivalent, and keep a copy of such records for a period of two (2) years. The information to be listed in such records shall be prescribed by regulation of the State Department of Agriculture, and such regulations may direct that a copy of such records be submitted to the Commissioner periodically; failure to submit these records to the State Department of Agriculture for public record shall constitute a violation of this Act and the license shall be revoked in addition to the other penalties provided elsewhere within this Act.

Appliers and Custom Appliers

Sec. 4. (a) It shall be unlawful for any person to apply herbicides to any land or plants before obtaining a permit from the State Department of Agriculture or without complying with this Act or the regulations of the State Department of Agriculture, provided, however, it shall not be necessary for an applier to have a permit if he does not apply her-

bicides to a total acreage in any one (1) year of more than ten (10) acres. All appliers except those applying to lawns, although a permit is not required, must give notice before spraying, of intent to spray and submit a record of the spraying in accordance with regulations of the State Department of Agriculture.

(b) All appliers, except those applying to lawns, and all custom appliers must make a record of each application of herbicides and must keep such records for a period of two (2) years. The information to be listed in such records must be prescribed by regulation of the State Department of Agriculture and such regulations may direct that copies of such records be submitted to the Commissioner of Agriculture.

(c) Bonds and Crop Damage Insurance. All custom appliers must deposit a surety bond in the penal sum of Twenty Thousand Dollars ($20,000) with, and to be approved by, the Commissioner of Agriculture. Said bond shall be increased in the amount of Two Thousand Dollars ($2,000) for each piece of spraying equipment licensed for use by such custom appliers. Compliance with the requirements of this Act and any regulations of the State Department of Agriculture shall be a condition of said bonds, and any failure to perform said condition which results in injury to any crops or valuable plants shall be grounds for a forfeiture of any bond to the person or persons owning such crops or valuable plants by a suit brought by the Commissioner of Agriculture or any interested party. As an alternative to the bond requirements herein, the custom applier may subscribe for, and hold, a policy of crop damage insurance in the same amount as required by the bond provisions set forth in this Section. The requirements of such Crop Damage Insurance Policies shall be prescribed by the Commissioner of Agriculture and the policy approved by the Commissioner. Said bonds or Crop Damage Insurance shall not be a limitation on any civil or penal liability incurred by the negligent or unlawful use of herbicides.

Permits

Sec. 5. (a) A permit fee of not more than ten cents (10¢) per acre, the amount of such fee to be determined by the Commissioner, shall be paid upon application for a permit to spray herbicides.

(b) The Commissioner may issue either an individual permit or a blanket permit, provided, however, that as a condition of any applier or custom applier holding a valid permit they must submit the record of each application of herbicides within any time prescribed by regulation of the Commissioner. The Commissioner is specifically authorized to grant, refuse to grant, alter, amend or revoke any permit and to exempt, by regulation, any area, body politic, or type of application from the necessity of having a permit or paying the permit fee and to prohibit application in any area during any time that it is found to be hazardous to crops or valuable plants.

(c) When the facts indicate that any type of application does not create a hazard in any particular area, the Commissioner shall exempt by regulation such area from having a permit or paying a permit fee and shall promulgate regulations in accordance with the facts found.

(d) No permit shall be issued for the application of powder or dry type herbicides and any such application of powder or dry type herbicides at any time shall be a violation of this Act where a permit has been issued.

Equipment

Sec. 6. (a) All equipment used in the custom application of herbicides must be inspected and licensed before such may be used to apply herbicides. Such equipment must be inspected before each renewal of a license, and in addition all equipment used on any aircraft in the application of herbicides must be inspected every thirty (30) days when installed upon said aircraft and must be inspected before use after reinstallation if a period of more than thirty (30) days has lapsed since the last inspection.

(b) An inspection fee of Ten Dollars ($10) for each piece of equipment must be paid upon inspection of any equipment.

(c) The Commissioner is authorized to provide by regulation for the requirements of all equipment, whether or not such equipment must be licensed, and the said Commissioner may regulate or prohibit the use of any equipment that may be hazardous in any area of the State and to provide by rules and regulations what constitutes an installation on aircraft.

Terms of Permits and Licenses

Sec. 7. (a) All dealers licenses and equipment licenses shall expire on January 1st of each year except those valid licenses that were issued before the effective date of this Act which shall expire the first day of January next following the expiration date of the license. All licenses issued after the effective date of this Act and prior to January 1, 1954, shall expire March 1, 1955.

(b) All permits shall expire when herbicides have been applied to the area described in the permit or when all the acreage for which the permit was granted has been treated. In the event said acreage is not treated then the permit shall expire one hundred and eighty (180) days after the date of issuance. If in fact herbicides are not applied to acreage to which it was contemplated application would be made, then the person may make application to the Commissioner and shall receive a refund of the fees paid for acreage not actually treated.

Regulations

Sec. 8. (a) All regulations shall be distributed in printed form and a copy delivered to each applicant for a permit or license. Upon written request of any interested person for a revision of the regulations, an exemption from the law or any requirement thereof, or a prohibition of spraying in any area, the Commissioner shall hold a public hearing within twenty (20) days after such request. Each holder of a permit or license in the area affected by the hearing shall be given adequate notice of such hearing by the Commissioner at least ten (10) days prior to such hearing. The Commissioner shall deliver such notice to the holder of the permit or the license and shall publish such notice in a newspaper or newspapers of wide and regular circulation in the area affected. Not more than one (1) hearing shall be held considering the conditions of any one (1) area during a period of ninety (90) days unless more frequent hearings are deemed necessary by the Commissioner. Each revision of the regulations shall be published and distributed in the same manner as the original regulations. A person will have twenty (20) days after the effective date of any regulation or after a change of regulations within which to comply with such new or changed regulation. Such regulations as have been previously issued shall be in force until twenty (20) days after the effective date of any new or changed regulations.

(b) The Commissioner is charged with the duty of enforcing the requirements of this Law and any regulations issued hereunder. In the event a County or District Attorney refuses to act on behalf of the Commissioner the Attorney General shall so act.

Application

Sec. 9. (a) All herbicides shall be applied according to the rules and regulations as set by the Commissioner and it shall be the joint responsibility of the applier and custom applier to supervise the application of herbicides in compliance with the rules and regulations, as set by the Commissioner.

Inspections of Affected Crops or Sprayed Areas. Notice to Commissioner

Sec. 10. The Commissioner shall have the authority to enter upon and inspect any premises before issuing a permit for spraying and may inspect the surrounding area. He shall inspect all crops reported to him as being affected by herbicides, shall inspect the surrounding area to find possible sources of drift and shall make a report of all findings in connection with such affected crop. In the event a person has crops or plants affected by drift of hormone type herbicides, he must notify the Commissioner of Agriculture of such effect before the crop is harvested or the plants destroyed, whichever fact first occurs. If no notice is given it shall be presumed there was no effect of hormone type herbicides, provided, however, such presumption may be rebutted by proper evidence to the contrary.

Exemptions

Sec. 11. Upon written notice to the Commissioner, and under regulations which he may prescribe, experimental work with herbicides by the State Department of Agriculture, any recognized college or university, the United States Department of Agriculture and any body politic or public organization shall be exempted from obtaining a permit for the use of herbicides and from paying the fee therefor, and the Commissioner may exempt the above from any other requirements of the law or regulations.

Herbicide Fund

Sec. 12. All license and permit fees collected by the Commissioner under the provisions of this Act shall be placed in a special fund of the State Treasury and payable to the State Treasurer to be known as the "Herbicide Fund" which fund, or so much thereof as may be necessary, is hereby appropriated to the Commissioner to pay the expense of the administration of this Act and all expenditures shall be paid by the Treasurer upon warrants drawn by the Comptroller of Public Accounts issued by the Commissioner. The Commissioner may employ such inspectors and other employees as may be necessary for the proper enforcement of the provisions of this Act and the regulations promulgated hereunder.

County Herbicide Inspectors

Sec. 13. The Commissioners Courts of all counties are hereby authorized to appoint and compensate a person or persons to act as a herbicide inspector for the area designated by such appointment. Such herbicide inspectors shall cooperate with and work under the supervision of the Commissioner of Agriculture and shall have such powers as an employee of the Commissioner of Agriculture.

Penalties

Sec. 14. Any person violating any requirement of this Act or failing to perform any requirement hereof shall be guilty of a misdemeanor. It shall be deemed a violation to spray without a permit; to sell without a license; to operate equipment without a license or to fail to keep and submit records if such are necessary as set forth in this Act or in regulations of the Commissioner of Agriculture. It shall be a violation for any person to act contrary to any requirement of a regulation of the Commissioner of Agriculture or to fail to comply with any such regulations. Said regulations shall have the force and effect of law and any violation thereto shall be a violation of this Act. Upon conviction, a person shall be fined not less than One Hundred Dollars ($100) nor more than Two Thousand Dollars ($2,000) or confined to jail not more than thirty (30) days or given both such fine and jail sentence. The penalty provided for herein shall in no way affect any civil liability of the person convicted hereunder.

Application of act to certain counties

Sec. 17. 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 Commissioners 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 the following named counties shall be exempt from the provisions of this Act: Coleman, Runnels, Coke, Tom Green, Sterling, Glasscock, Reagan, Upton, Irion, Crane, Sutton, Schleicher, Crockett, Val Verde, Presidio, Pecos, Jeff Davis, Brewster, Terrell, Edwards, Mills, Lampasas, Burnet, Llano, Gillespie, Kerr, Bandera, Kinney, Uvalde, Zavala, Real, Kimble, Mason, Menard, McCulloch, San Saba, Concho, Brooks, Cameron, Dimmit, Duval, McMullen, Nueces, Starr, Webb, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, LaSalle, Willacy, Zapata and Maverick.

Application to certain senatorial districts

Sec. 17a. It is provided, however, that nothing in this Act shall apply to the counties comprising the 25th Senatorial District of Texas, nor

to the 12th Senatorial District of Texas. Acts 1953, 53rd Leg., p. 858, ch. 349.

Emergency. Effective Sept. 1, 1953.

Section 15 of the Act of 1953 provided that partial invalidity should not affect the validity of the remainder of the act. Section 16 repealed art. 135b—3 and all conflicting laws and parts of laws as of September 1, 1953, and provided that the law should become effective September 1, 1953, that the Herbicide Fund established by art. 135b—3 was preserved and that the Herbicide Fund provided for in the Act of 1953 should be a continuation thereof.

CHAPTER NINE—SOIL CONSERVATION AND PRESERVATION

Arts. 165a—8, 165a—9. Repealed. Acts 1953, 53rd Leg., p. 823, ch. 332, § 13. Eff. June 8, 1953

Article 165a—8, was derived from Acts 1949, 51st Leg., p. 1000, ch. 40, and related to grants to soil conservation districts; powers and duties. Article 165a—9, was derived from Acts 1951, 52nd Leg., p. 1206, ch. 497, and related to reappropriation of unexpended balances; grants of assistance.

Art. 165a—10. Funds; powers and duties of supervisors; discontinuance of districts; conventions

Reappropriation of unexpended balances

Section 1. In pursuance of the Mandate of the Conservation Amendment (Article XVI, Section 59A) to the Constitution of this State and of the Soil Conservation Statutes relating to and authorizing the creation and operation of Soil Conservation Districts as Bodies Politic, and recognizing and declaring the existence of a public calamity resulting from drought and wind and water erosion of soil throughout this State, and for the purpose of carrying out the mandatory Constitutional and Statutory provisions relating to the conservation of soil in this State, there is hereby appropriated all unexpended balances of funds and properties heretofore appropriated or granted to Soil Conservation Districts by said House Bill No. 190 and House Bill No. 97, to be used and expended as provided for under the Soil Conservation Statutes and by this Act.

Deposit and withdrawal of funds

Sec. 2. The Soil Conservation Funds so appropriated to Conservation Districts shall be deposited in State or National Banks and shall be withdrawn upon approval of the Board of Supervisors of a District by checks or orders signed by the Chairman and Secretary of the Board of Supervisors of the District.

Fidelity bonds; accounts and records; audits

Sec. 3. The Supervisors shall provide for fidelity bonds for all officers and employees entrusted with funds or property of a District, provide for keeping full and accurate accounts, records of proceedings, resolutions, regulations and orders issued or adopted, and shall provide for annual audits of the accounts and affairs of a District for the period September 1 through August 31 of the succeeding year, by a Registered Public Accountant. Copies of such annual audits shall be furnished to the Gov-

ernor and the Legislative Budget Board not later than January 1 following the audit. The fidelity bond required of the Secretary-Treasurer of a District shall be equal to one-half (½) its daily balances on deposit for the preceding year. The costs for keeping such accounts, the annual audits and other necessary expenses shall be paid out of any funds available to a District.

Purchase and sale of machinery, equipment and supplies

Sec. 4. The Supervisors of a District shall not purchase any machinery, equipment, seeds, fertilizer, or other supplies except upon demand made in writing to the Board of Supervisors by not less than ten (10) landowners and occupiers within the District, and such Board of Supervisors shall not purchase any machinery, equipment, seeds, fertilizer, or other supplies until they have entered upon the minutes of the Board of Supervisors a finding: (a) A sufficient demand exists for use within the District to justify purchase, (b) the revenue to be derived from said purchased item will be reasonably expected to pay the cost of replacement. Subject to the foregoing rules the Supervisors of a District may purchase and make available to landowners and occupiers seeds, fertilizers and other supplies including machinery, and equipment when considered to be essential to the purposes of a District Program, and shall provide for maintenance, insurance, storage and repair of such machinery and equipment. From the sale of any fertilizer and seed the District's funds shall be reimbursed for the costs and handling charges thereof. Any machinery or equipment considered obsolete or as having served its purpose may be sold by the Board of Supervisors of a District on open bids. The cash received from the sale of machinery, equipment or any supplies shall be deposited to the District's funds and be used for other operations. Nominal charges may be made small landowners and occupiers for projects benefiting them when considered to be in the interest of the general welfare.

Purchases made through Board of Control; deposit of funds

Sec. 5. The purchase of machinery and equipment shall be made through the State Board of Control under the terms and regulations required by Law governing purchases for the State or political subdivisions thereof. The funds earned or acquired by a District prior to receiving any State funds, or from any operation or sale of machinery and equipment so acquired shall be deposited in a trust fund account of the District and used for any purpose considered for the best interest of the District.

Information demonstrated, publicized or made available

Sec. 6. Any pertinent information relating to legumes, cover crops, seeding, tillage, land preparation and management of grasses, seeds, legumes, cover crops, including the eradication of noxious growth under good conservation practices, shall be by the Board of Supervisors demonstrated, publicized or otherwise made available to landowners and occupiers.

How districts discontinued

Sec. 7. A Soil Conservation District may be discontinued by a majority vote of the qualified voters in the same manner of its creation. The certification by the State Soil Conservation Board to the Secretary of State shall suffice as notice for the discontinuance of a District.

Disposition of funds and equipment on discontinuance of district

Sec. 8. After a discontinuance of a District has been authorized as provided in Section 7 hereof, all machinery, equipment and supplies purchased with State funds shall be sold at public sale by the Supervisors and the cash received, together with any State funds to the credit of the District, shall be by the Secretary of the Board of Supervisors transferred to State's General Fund, unless the dissolution was for the purpose of adjusting the boundary lines and is immediately reorganized by a majority vote of the landowners, whereupon the funds and equipment of the dissolved District shall pass to the reorganized District. Should more than one District be created under the reorganization, the funds and equipment shall be divided under terms satisfactory to the Board of Supervisors of such reorganized Districts.

Notice of district convention; election of delegates

Sec. 9. It shall be the duty of the Texas Soil Conservation Board to notify the Chairman and Secretary of the Board of Supervisors of each District in the five State Districts, where in such State Districts, the District Conservation Convention will meet, at least sixty (60) days before the date of the Convention. Within ten (10) days after receiving such notice, the Chairman of the Board of Supervisors of each Local District in each State District wherein an election is to be held shall call a meeting of the Board of Supervisors for the purpose of electing a delegate and one alternate to the District Convention. The delegate and the alternate shall be landowners residing in the Local District and actively engaged in farming or ranching. Within ten (10) days after the selection of such delegate and alternate, the Chairman of the Board of Supervisors shall certify the names and addresses of the elected delegate and the alternate to the State Soil Conservation Board.

Election of members of State Soil Conservation Board

Sec. 10. The delegates of each of the five State District Conventions shall elect from among the qualified delegates by a majority vote, a member of the State Soil Conservation Board. The Chairman of each State Conservation District Convention shall within five (5) days thereafter certify to the Texas State Soil Conservation Board, and to the Secretary of State, the name and address of the person so elected. Each member of the State Soil Conservation Board shall be a qualified delegate to the State District Conservation Convention which elects his successor. A majority of the qualified delegates to the State District Convention shall constitute a quorum. Acts 1953, 53rd Leg., p. 823, ch. 332.

Effective June 8, 1953.

Section 11 of the Act of 1953 provided that partial invalidity should not affect the remainder of the act and its application to other persons and circumstances. Section 12 provided that the act should be controlling in cases of conflicts with other laws except where otherwise indicated. Section 13 repealed Arts. 165a—8 and 165a—9, Section 14 provided that the repeal should not invalidate any action authorized to be taken under the repealed laws, and taken prior to the effective date of the Act of 1953.

TITLE 8—APPORTIONMENT

Art. 199. 30, 22, 17 Judicial Districts

5.—Bowie and Cass

The 5th Judicial District of Texas shall be composed of the Counties of Bowie and Cass, and the terms of the District Courts within said Counties shall be as follows:

In Bowie County on the first Monday in January of each year and may continue in session for six (6) weeks; on the fourteenth Monday after the first Monday in January, and may continue in session for six (6) weeks; on the thirtieth Monday after the first Monday in January, and may continue in session for six (6) weeks; on the forty-second Monday after the first Monday in January and may continue for six (6) weeks; provided that during each term of said Court in Bowie County, Texas, the Court may sit at any time in Texarkana, Texas, to try, hear and determine any civil nonjury case, and may hear and determine motions, arguments and such other nonjury civil matters as may come before the Court; provided further that nothing herein shall be construed to deprive the Court of jurisdiction to try nonjury civil cases and hear and determine motions, arguments and such other nonjury civil matters at the County Seat at Boston, Texas.

In Cass County beginning on the sixth Monday after the first Monday in January of each year, and may continue in session for eight (8) weeks; on the twentieth Monday after the first Monday in January, and may continue in session for ten (10) weeks; on the thirty-sixth Monday after the first Monday in January and may continue in session for six (6) weeks; the last four (4) weeks term to begin on the forty-eighth Monday after the first Monday in January above, the Court shall try no cases except nonjury cases and pleas of guilty in criminal case.

The Clerk of the District Court in each of said Counties and his successors in office shall be the Clerk of the 5th District Court in said Counties and shall perform all duties pertaining to the Clerkship of said Court; provided that the District Clerk of Bowie County or his deputy shall wait upon said Court when sitting at Texarkana, Texas, and shall be permitted to transfer all necessary books, minutes and records to Texarkana, Texas, while the Court is in session there; and likewise to transfer all necessary books, minutes, records and papers from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

The sheriff of Bowie County or his deputy shall be in attendance upon the Court while sitting at Texarkana, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the Court.

All processes issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding term of the District Court of the several Counties as herein fixed respectively as though issued and served for such terms and courts returnable to and drawn for the same.

The Commissioners Court of Bowie County is hereby authorized to provide necessary and suitable quarters for the said Court while sitting at Texarkana, Texas. In its discretion said Commissioners Court of Bowie County is further authorized to make such agreements or agreement with the City of Texarkana, Texas, whereby said City will provide necessary

and suitable quarters in Texarkana, Texas, for holding said terms of Court at that place.

The District Court of the 5th Judicial District in Bowie and Cass Counties shall exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law. Said 5th Judicial District Court shall also have concurrent jurisdiction in Bowie County with the 102nd Judicial District Court, and all causes of action of a civil or criminal nature pending in either Court in said County shall, at the adjournment of each term of said Court in which the same is pending, be transferred by operation of law to the other Court; and said Courts, and Judges thereof, either in term time or vacation, may transfer any civil or criminal cause pending in their respective Court to the other District Court in said Bowie County by an order entered upon the minutes of their respective Court.

The Judge and all District Officers of the 5th Judicial District as heretofore constituted shall be the Judge and District Officers of the 5th Judicial District as constituted and reorganized by this Section during the terms for which they were elected. As amended Acts 1951, 52nd Leg., p. 344, ch. 216, § 1; Acts 1953, 53rd Leg., p. 913, ch. 376, § 1.

Emergency. Effective June 8, 1953.

Section 2 of the amendatory Act of 1953 repealed conflicting laws and parts of laws.

Section 3 provided that partial invalidity should not affect the validity of other provisions.

7.—Smith

(a) The 7th Judicial District of Texas shall be composed of Smith County; the terms of the District Court shall be held therein each year as follows:

In the County of Smith on the first Mondays in January and July.

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

(b) The Judge of said court in his discretion may hold as many sessions of court in any term of court in such county as is deemed proper and expedient for the dispatch of business. As amended Acts 1949, 51st Leg., p. 316, ch. 150, § 1; Acts 1953, 53rd Leg., p. 568, ch. 213, § 1.

Emergency. Effective May 27, 1953.

Subdivisions (c) and (d) of section 1 of Acts 1953, 53rd Leg., p. 568, ch. 213, affect the 114th Judicial District, post. Subdivisions (e) and (f) read as follows:

"(e) 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 from the same.

"(f) It is further provided that if any court in any county of either of said districts 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 districts shall conform to the requirement of this Act."

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

Trinity County

Sec. 9. Said Special Ninth Judicial District Court of Montgomery, Polk, San Jacinto and Trinity Counties, as created by Senate Bill No. 270, Chapter 7, Acts of the Forty-sixth Legislature, Regular Session, and extended by Senate Bill No. 158, Chapter 87, Acts of the Forty-eighth Legislature, Regular Session, and extended by House Bill No. 437, Chapter 207, Acts of the Forty-ninth Legislature, Regular Session, and extended by

House Bill No. 353, Chapter 72, Acts of the Fiftieth Legislature, Regular Session, and extended by House Bill No. 653, Chapter 271, Acts of the Fifty-first Legislature, Regular Session, and hereby extended shall cease to exist on the 31st day of December, 1954, 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; Acts 1953, 53rd Leg., p. 1043, ch. 430, § 1.

Emergency. Effective June 13, 1953.

24.—DeWitt, Goliad, Jackson, Refugio, Calhoun and Victoria

Additional district court for counties in 24th judicial District, see District 135.

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

San Patricio county, see, also, 135th District, post.

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 Mondays in January and June.

In the County of Coke on the first Mondays in February and August.

In the County of Irion on the first Mondays in March and September.

In the County of Schleicher on the first Mondays in April and October.

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

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

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

All processes issued, bonds and recognizances made and all Grand and Petit Juries drawn before this Act takes effect shall be valid and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

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 hereby 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; Acts 1953, 53rd Leg., p. 525, ch. 189, § 1.

Emergency. Effective May 19, 1953.

83. —— Jeff Davis, Presidio, Brewster, Pecos, Upton and Reagan

Section 1. The terms of the District Court of the 83rd Judicial District of this State composed of the Counties of Jeff Davis, Presidio, Brewster, Pecos, Upton and Reagan shall be held as follows:

Jeff Davis County: On the second Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening of the next regular term of said Court in Jeff Davis County.

Presidio County: On the third Monday after the first Monday in January and July 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 Presidio County.

Brewster County: On the sixth Monday after the first Monday in January and July 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 Brewster County.

Pecos County: On the ninth Monday after the first Monday in January and July 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 Pecos County.

Upton County: On the twelfth Monday after the first Monday in January and July 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 Upton County.

Reagan County: On the fourteenth Monday after the first Monday in January and July 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 Reagan County. As amended Acts 1953, 53rd Leg., p. 393, ch. 109, § 1.

Emergency. Effective May 8, 1953.

Sections 2–4 of the amendatory Act of 1953, read as follows:

"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 in said District 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 and including the Saturday immediately preceding the Monday of the beginning of the next succeeding term therein as provided for herein, but hereafter all Courts in said District shall conform to the requirements of this Act."

102. —— Bowie and Red River

102. The 102nd Judicial District of Texas shall be composed of the Counties of Bowie and Red River; and the terms of the District Courts within said Counties shall be held therein as follows:

In Red River County beginning on the first Monday in January and may continue in session for six (6) weeks; on the fourteenth Monday after the first Monday in January and may continue in session six (6) weeks; on the thirtieth Monday after the first Monday in January and may continue in session six (6) weeks; on the forty-second Monday after the first Monday in January and may continue in session six (6) weeks.

In Bowie County beginning on the sixth Monday after the first Monday in January and may continue in session eight (8) weeks; on the twentieth Monday after the first Monday in January and may continue in session ten (10) weeks; on the thirty-sixth Monday after the first Monday in January and may continue in session six (6) weeks; on the

forty-eighth Monday after the first Monday in January and may continue in session four (4) weeks; provided that during each term of the Court in Bowie County, the Court may sit at any time in Texarkana, Texas, to try, hear and determine any civil nonjury case, and may hear and determine motions, arguments and such other nonjury civil matters as may come before the Court; provided further, that nothing herein shall be construed to deprive the Court of jurisdiction to try nonjury civil cases and hear and determine motions, arguments, and such other nonjury civil matters at the county seat at Boston, Texas.

The Clerk of the District Court in each of said Counties and his successors in office shall be the Clerk of the 102nd Judicial District Court in said Counties and shall perform all duties pertaining to the Clerkship of said Court; provided that the District Clerk of Bowie County or his deputy shall wait upon said Court when sitting at Texarkana, Texas, and shall be permitted to transfer all necessary books, minutes, records and papers to Texarkana, Texas, while the Court is in session there; and likewise to transfer all necessary books, minutes, records and papers from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

The Sheriff of Bowie County or his deputy shall be in attendance upon the Court while sitting at Texarkana, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the Court.

The 102nd Judicial District Court when sitting at Texarkana, Texas, as herein authorized, shall be authorized to use the facilities in Texarkana, Texas, furnished and provided for the use of the 5th Judicial District Court while sitting there.

The District Court of the 102nd Judicial District in Bowie and Red River Counties shall exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law.

Said 102nd District Court shall also have concurrent jurisdiction in Bowie County with the 5th Judicial District Court, and all causes of action of a civil nature pending in either Court in said County shall, at the end of each term of such Court in which the same is pending, be transferred by operation of law to the other Court, except where the next succeeding term of the 5th District Court will convene before the next term of the 102nd District Court in said County; and said Courts, and the judges thereof, either in termtime or vacation, may transfer any civil or criminal cause pending in their respective Courts to the other District Court in said County by an order entered upon the minutes of their respective Courts.

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

The Judge and all District Officers of the 102nd Judicial District as heretofore constituted shall be the Judge and District Officers of the 102nd Judicial District as constituted and reorganized by this Section during the terms for which they each respectively were elected. As amended Acts 1953, 53rd Leg., p. 727, ch. 284, § 1.

Emergency. Effective June 4, 1953.

Section 2 of the Amendatory Act of 1953 repealed conflicting laws and parts of laws. Section 3 declared the legislative intent to enact separate provisions independent of others, and provided that partial unconstitutionality should not affect other provisions.

114. —— Smith and Wood

(*l*) The 114th Judicial District of Texas shall be composed of Wood and Smith Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Wood on the first Mondays in January and July.

In the County of Smith on the first Mondays in January and July.

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.

(m) The Judge of said court in his discretion may hold as many sessions of court in any term of court in any county as is deemed proper and expedient for the dispatch of business. Acts 1953, 53rd Leg., p. 568, ch. 213, § 1.

Emergency. Effective May 27, 1953.

Acts 1953, 53rd Leg., p. 568, ch. 213, § 1, subds. (c) and (d), relating to the terms of the district court of the 114th Judicial District, are allocated above as subds. (*l*) and (m). For subds. (a), (b), (e) and (f) of section 1 of the 1953 amendment, see 7th Judicial District, ante, and notes thereunder.

118.—Howard, Glasscock and Martin

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, as amended by Acts 1953, 53rd Leg., p. 369, ch. 94, § 1, 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.

135. —— San Patricio, Goliad, Jackson, Refugio, Calhoun and Victoria

Section 1. The 135th Judicial District of Texas shall from and after the effective date of this bill consist of San Patricio, Goliad, Jackson, Refugio, Calhoun and Victoria Counties, and the Court of said District, to be known as the 135th District Court, shall have jurisdiction over civil cases only, and the limits of said District shall be coextensive with the limits of said Counties.

Sec. 2. The present Judge of the 135th Judicial District shall continue to serve as Judge of said District for the remainder of the term to which he was elected and for which he has qualified 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.

Sec. 3. There shall be two (2) terms of the District Court of the 135th Judicial District in each of said Counties each year as follows:

In the County of Refugio on the first Mondays in January and June, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

In the County of Calhoun on the first Monday in February and last Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

In the County of Victoria on the fourth Monday in February and third Monday in September, and may continue in session until the Satur-

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

In the County of Jackson on the third Mondays in March and October, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

In the County of Goliad on the second Mondays in April and November, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

In the County of San Patricio on the fourth Mondays in April and November, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

The Judge of said Court, in his discretion, may hold as many sessions of court in any term in any County as he may deem proper and expedient for the dispatch of business.

Sec. 4. The district clerk of each of the respective Counties included in said Judicial District shall also be clerk of the District Court of the 135th Judicial District in such respective Counties.

Sec. 5. There shall be a docket for the 24th District Court and a docket for the 135th District Court in each of the Counties of Goliad, Jackson, Refugio, Calhoun and Victoria, and a docket for the 36th District Court and a docket for the 135th District Court in the County of San Patricio. All suits and other proceedings instituted in any county in the District of which the District Court has jurisdiction shall be addressed to the District Court of the County in which the suit or other proceeding is instituted. All civil cases or other civil proceedings having an even number when filed shall be placed on the docket of the 24th Court in Goliad, Jackson, Refugio, Calhoun and Victoria Counties, and on the docket of the 36th District Court in San Patricio County, and all civil cases filed with an uneven number in each of said Counties shall be placed on the docket of the 135th District Court, starting with the first civil case or other civil proceeding filed after this Act becomes effective. All cases at that time on the civil docket of said Court or Courts with even numbers shall be placed on the docket of the 24th District Court in Goliad, Jackson, Refugio, Calhoun and Victoria Counties and on the docket of the 36th District Court in San Patricio County, and those civil cases with uneven numbers shall be placed on the docket of the 135th District Court in each of said Counties. The Judge of either the District Court of the 24th District or the 135th District in the Counties of Goliad, Jackson, Refugio, Calhoun and Victoria and the Judge of either the 135th District or the 36th District in San Patricio County may hear and dispose of any suit or other proceeding on the docket of either of said District Courts of the County in which the suit or either proceeding is instituted without the necessity of transferring the suit or other proceeding from one Court to another; and the Judges may transfer cases from one Court to the other by an order entered on the docket of the Court from which the case is transferred, provided that no case shall be transferred without the consent of the Judge of the Court to which transferred. Every judgment and order shall be entered in the minutes of the District Court of the County in which the proceedings are pending, and the clerk of the District Court in said County shall keep one set of minutes for each District Court in which shall be recorded all judgments and orders of each Court respectively. All cita-

tions and other process issued by the district clerk and all notices, restraining orders and other process authorized to be issued by the Judge of the 24th District Court or the 135th District Court in Goliad, Jackson, Refugio, Calhoun and Victoria Counties and of the 36th District Court or the 135th District Court in San Patricio County shall be returnable to the District Court of the County in which Court such suit or other proceeding is pending. All cases pending on the docket of the 135th District Court in De Witt County at the effective date of this Act shall be transferred to the docket of the 24th District Court in De Witt County, so that thereafter said cases shall be on the docket of said 24th District Court of De Witt County.

Sec. 6. The Judge of the 135th District Court shall appoint a shorthand reporter for such Court, who shall hold office and be compensated as provided by law.

Sec. 7. The Judges of the 24th and 135th District Courts in Goliad, Jackson, Refugio, Calhoun and Victoria Counties and the Judges of the 36th and 135th District Courts in San Patricio County shall sign the minutes of each term of said respective Courts in said Couuties within thirty (30) days after the end of each term, and each Judge shall also sign the minutes of the other Court covering such proceedings as were had before him.

Sec. 8. Qualified jurors for service in both said 24th Judicial District Court and said 135th Judicial District Court in Goliad, Jackson, Refugio, Calhoun and Victoria Counties and in both the 36th Judicial District Court and the 135th Judicial District Court in San Patricio County shall be selected by jury commissions in accordance with the provisions of Article 2104 of Revised Civil Statutes of Texas, as amended, and succeeding Articles; and the provisions of Senate Bill No. 466, Chapter 467, Acts of the Fifty-first Legislature of Texas (Article 2094), or any other provisions of the law concerning selection of petit jurors by the jury wheel shall not apply in said District Courts in said Counties.

Sec. 9. Jurors selected by the jury commissioners as provided in the preceding Section of this Act may be summoned and used for the trial of civil cases interchangeably in either the 24th District Court or the 135th District Court in Goliad, Jackson, Calhoun, Refugio and Victoria Counties, and in either the 36th District Court or the 135th District Court in San Patricio County. For the trial of criminal cases, only juries selected by the jury commissioners in the 24th District Court in Goliad, Jackson, Calhoun and Victoria Counties, and in the 36th District Court in San Patricio County, shall be impaneled; except that the laws providing for the summoning of talesmen as provided in the Code of Criminal Procedure shall apply where applicable. Acts 1951, 52nd Leg., p. 498, ch. 306, as amended Acts 1953, 53rd Leg., p. 358, ch. 86, § 1.

Emergency. Effective April 30, 1953.

Section 2 of the amendatory Act of 1953 provided that partial invalidity should not affect the remaining portion of the Act. Section 3 repealed conflicting laws and parts of laws to the extent of the conflict, and provided that, as to all other laws and parts of laws, the Act should be cumulative.

TITLE 14—ATTORNEYS AT LAW

Art. 320a—1. State Bar Act

Effective June 1, 1954, the fees for members of the State Bar were fixed at $12.00 per annum for each attorney licensed more than three years, and $8.00 per annum for each attorney licensed three years or less.

RULES GOVERNING
THE STATE BAR OF TEXAS

Adopted by

MEMBERS OF THE STATE BAR OF TEXAS

and

Promulgated by

THE SUPREME COURT OF TEXAS

As Amended to Sept. 1, 1953

ARTICLE XII

DISCIPLINE OF MEMBERS

UNAUTHORIZED PRACTICE OF LAW

The sections of original Article XII are repealed and new sections 1 to 36, inclusive, are substituted therefor.

A. GRIEVANCE COMMITTEES

Section 1. Grievance Committee Districts

Each Congressional District shall have one or more Grievance Committees as hereinafter set forth. At the first meeting of the Board of Directors after adoption of this amendment, the Board, with the advice of the Director for each Congressional District, shall determine whether the duties of a Grievance Committee can be performed effectively by one committee for the entire district, or whether the same should be divided into two or three Grievance Committee Districts; and where more than one such district is deemed in order, the Board shall create such districts, naming the county or counties to be included in each. The Board shall have the power to change the boundaries of such districts, and to create new ones, from time to time, as may be required by virtue of Congressional redistricting, or for other good reason.

Source: New. Compare Original Section 16.

Section 2. Grievance Committee Districts, Designation of

The Grievance Committee Districts shall be designated according to the Congressional Districts, that is, for example, "Grievance Committee District No. 5", corresponding with Congressional District No. 5, and

where there shall be more than one Grievance Committee District for the Congressional District, the designation, for example, shall be "Grievance Committee District No. 21–A" (or 21-B, or 21-C).

Source: New.

Section 3. Size of Grievance Committees

Where there shall be but one Grievance Committee for a Congressional District, it may consist of five, seven, or nine members; where there shall be more than one committee, each shall consist of five members.

Source: See Original Section 16.

Section 4. Appointment and Tenure of Grievance Committee Members

The President, upon recommendation of the Director, shall appoint the members of the Grievance Committee or Committees for the Congressional District. Each member of a Grievance Committee shall be a resident of the Grievance Committee District for which he is appointed. Except as hereinafter provided, each member shall serve for a term of three years, beginning with the adjournment of the annual meeting of the State Bar.

All members shall be eligible to re-appointment.

The President and Directors shall give precedence to Grievance Committee appointments, and notice of the appointments, when made, shall be given the appointees, the holdover members, and the retiring members, of the Committee. Delay in making appointments shall not deprive the Committee of its power to act, and retiring members shall continue to hold office pending the organization meeting of the new committee.

In making appointments for the first time after this amended rule has been adopted and become effective, or after Congressional re-districting, or after change in boundaries of districts, the President shall specify which members of the Committee whose terms have not expired shall serve for one more year, which for two more years, and which, if any, shall serve for three more years, and likewise with reference to appointments then being made, which members shall serve for one, two, or three years, to the end that thereafter the terms of approximately one-third of the Committee shall expire each year.

Source: Original Section 16, with a number of changes.

Section 5. Organization of Grievance Committees and Quorum

It shall be the duty of the Director to call promptly the first meeting of the Grievance Committee or Committees in his District and to preside until after the Committee shall have elected its own Chairman. A majority of the Committee shall constitute a quorum for all purposes.

Source: Quorum provision from Original Section 16. Otherwise new.

Section 6. Disqualification of Members

If a matter shall arise before a Committee where the Committee considers one or more of the members disqualified to act, such member or members shall be excluded from further participation therein, and if the Chairman, or a majority of the remainder of the Committee, shall be of the opinion that one or more temporary members should be appointed to act in his or their stead, the President shall make such appointment on request, to be effective only so far as concerns the matter in question.

Source: Compare Original Section 17.

B. GRIEVANCE COMMITTEE ACTION ON COMPLAINTS

Section 7. "Complaint" and "Formal Complaint" Distinguished

The term "complaint" shall embrace all complaints brought before a Grievance Committee, whether verbally or in writing. By "Formal Complaint" is meant the pleading by which a disciplinary action is instituted by a Grievance Committee in District Court.

Source: New. Compare Original Sections 19 and 20.

Section 8. Professional Misconduct, What Constitutes

For the purpose of these rules, professional misconduct shall include the following:

(a) Barratry, as defined by the laws of this State, malpractice, or any fraudulent or dishonorable conduct, whether or not connected with the practice of law, regardless of the fact that such act or acts may constitute an offense under the Penal Code of this State, and regardless of whether the accused attorney is being prosecuted for, or has been convicted of, or has been acquitted of, the violation of such penal provision.

(b) Any willful violation of any Canon of Ethics contained in these rules or amendments thereto.

Source: Original Section 1, with changes. Note also 1925 RS, Art. 313 [V.A.T.S. art. 313].

Section 9. Compulsory Disbarment

Disbarment shall be compulsory on proof of conviction of any felony, or of any misdemeanor involving the theft, embezzlement, or fraudulent appropriation of money or other property.

Source: Original Section 2, with changes. Note also 1925 RS, Art. 311 [V.A.T.S. art. 311].

Section 10. Four-year Limitation Rule and Exceptions

Except in cases where disbarment is compulsory under Section 9, no member shall be reprimanded, suspended, or disbarred for misconduct occurring more than four years prior to the time of filing of a complaint with the Grievance Committee; but limitation will not run where fraud or concealment is involved until such misconduct is discovered or should have been discovered by reasonable diligence. The complaint shall be considered as filed when made in writing to the Committee or any member thereof.

In cases where the accused attorney has been found guilty of professional misconduct, evidence may be introduced after the close of the trial, relating to misconduct otherwise barred by limitation, for consideration in determining the punishment to be decreed.

Source: Original Section 5, with additional provisions.

Section 11. Complaints, Filing of

It shall be the duty of each District Grievance Committee and its members to receive complaints of professional misconduct, alleged to have been committed by an attorney within the district, or by an attorney having his office or residence therein; and each Committee member shall report to his committee any case of professional misconduct which shall come or be brought to his attention. The Committee may, in any case, require a sworn statement setting forth the matter complained of as a condition to taking further action.

Source: Original Section 18 with slight changes. Last sentence is new.

Section 12. Complaints, Investigation of

The Committee shall make such investigation of each complaint as it may deem appropriate under the circumstances of the case, preliminary to taking action as set forth under Section 16. In conducting a hearing as a part of any investigation, the Committee may require testimony to be given under oath or affirmation. The name of the accused member and the proceedings shall be kept private, so far as is consistent with development of the facts. Where the complaint appears to be of such nature as will not call for disciplinary action and can probably be dismissed without the necessity of hearing the accused attorney, the Committee need not notify him of the filing of the complaint.

Source: Partly from Original Sections 18 and 19, and partly new.

Section 13. Notices Issued to Witnesses

In any investigation or hearing before the Grievance Committee, it may require the attendance of witnesses and the production of documentary or other evidence by issuing notices to witnesses, ordering them to appear and testify or to produce said documentary or other evidence. Such notices shall be issued at the request of the Committee, or the accused attorney, but in the latter case without expense to the State Bar. Such notice must be in writing and signed by the presiding member of the Committee, and shall notify the witness of the time and place he is to appear. If the witness is commanded to produce documentary or other evidence, the notice shall contain a brief description of such evidence.

Source: Original Section 29, virtually unchanged.

Section 14. Service of Notices to Witnesses

Notice to a witness shall be served on the witness personally or by mailing the same to him by registered mail, return receipt requested. Proof of service may be made by certificate of the person making the same, with return receipt attached when made by registered mail.

Source: Original Section 30. Second sentence changed.

Section 15. Examination of Witness before District Judge; Procedure

If any witness, other than the accused attorney, after such notice has been given, fails or refuses to appear before the Committee, or to produce books, papers, documents, letters, or other evidence described in the notice, or refuses to be sworn, or testify, or if a witness is not a resident of, or is not to be found in, the county in which the hearing is being held, such witness shall be compelled by a Judge of any district court to appear and testify at a hearing before such judge in the same manner as witnesses may be compelled to appear and testify in a civil suit in the district court. Application for such hearing may be filed by any party to such proceeding in any district court of the county in which such witness resides or may be found. The judge shall fix by order a time and place for such hearing and shall provide for such notice to the Grievance Committee and the accused attorney as he deems proper. If such witness fails to appear, or testify, or produce such documentary or other evidence as may be requested, he shall be punished as in cases of contempt.

Source: Original Section 31, virtually unchanged.

Section 16. Complaints, Action on, after Investigation

At the conclusion of its investigation, the Committee shall take action on the complaint in one of the following ways:

(a) If the Committee shall be of the opinion that no disciplinary action is warranted, it shall dismiss the complaint and notify the complainant,

and the accused attorney also, if he shall have had notice of the complaint.

(b) If, in a case where the accused has had notice of the complaint and opportunity to be heard, the Committee shall decide that he should be reprimanded, the reprimand shall be reduced to writing. At its discretion, the Committee may require the accused to appear before it for delivery of the reprimand, or it may send copy thereof to him by registered mail; and it shall determine what publicity, if any, shall be given the reprimand.

If the accused shall deem the reprimand unwarranted, he may, within ten days after delivery or mailing thereof, file suit in the district court of the county of his residence to set the same aside, failing which, the reprimand shall become final, and a copy thereof, together with a copy of the complaint, shall be mailed to the Clerk of the Supreme Court, also to the Secretary of the State Bar, and a memorandum of the reprimand shall be made on the membership rolls kept by said Clerk. At the discretion of the Committee, a third copy of the reprimand may be delivered to the Clerk of the District Court of the residence or office address of the attorney for entry upon the minutes of the court.

(c) If the Committee shall be of the opinion that the license of the accused should be revoked, or suspended for a period not to exceed three years, and shall have reason to believe the accused will accept its action as final, it shall prepare a form of judgment and submit the same to him; and upon his agreement to its entry, evidenced by memorandum in writing signed and acknowledged by him, the Committee shall enter judgment accordingly, and the same shall have the force and effect of a judgment of the District Court of the county of the residence of the accused. Copies of the judgment, together with copies of the complaint, shall be mailed to the Secretary of the State Bar, the Clerk of the Supreme Court, and the Clerk of the District Court of the county of residence of the accused, in the last case for entry upon the minutes of court. If the attorney's license has been revoked, the Clerk of the Supreme Court shall strike his name from the rolls; if suspended, the said Clerk shall strike the name from the rolls for the time suspended.

(d) In other cases, the Committee shall direct procedure by Formal Complaint as hereinafter set forth.

Source: New. Compare Original Sections 19, 20, 32, 33.

Section 17. Grievance Committee Forms, Style of

Grievance Committee papers may be commenced as follows:

BEFORE THE GRIEVANCE COMMITTEE OF THE STATE BAR OF TEXAS FOR DISTRICT NO. .....
COMPLAINT AGAINST
..... REPRIMAND
....., TEXAS.

Source: New. (By way of illustration.)

Section 18. Reprimand, Form of

A reprimand should set forth the pertinent findings of fact and the conclusions of the Committee. It may state the reasons why no more severe action is taken and contain the warning that no leniency may be expected in event of future misconduct. It should show where copies thereof are to be filed, and what publicity, if any, shall be given thereto. It shall be signed as follows:

GRIEVANCE COMMITTEE OF THE STATE BAR OF TEXAS
FOR DISTRICT NO. .....
BY .....

The Chairman or any other member may sign for the Committee.

Source: New.

Section 19. Grievance Committee Judgment, Form of

A judgment of the Grievance Committee entered under Section 9 (c) should in general follow the ordinary form of a court judgment. It may recite filing of the complaint and hearing thereon by the Committee, submission of the form of judgment to the accused and his consent to its entry, pertinent findings of fact and the conclusion that by reason thereof the Committee finds the accused guilty of professional misconduct calling for his disbarment or suspension for the period stated, as the case may be. The order should be to the effect that license of the party to practice law in the State of Texas is thereby revoked, or suspended for the period stated, as the case may be, and that copies of the judgment be transmitted pursuant to Section 16 (c). The judgment should be signed by the Chairman of the Committee.

Source: New.

Section 20. Consent to Grievance Committee Judgment, Form of

Consent to entry of judgment by the Grievance Committee under Section 16 (c) should be addressed to the Committee and may be in form in substance as follows:

"In connection with charges of professional misconduct filed against me and heard by your Committee, I hereby consent to entry of judgment in the form submitted to me pursuant to Article XII, Section 16 (c) of the State Bar Rules, revoking my license to practice law in the State of Texas (or suspending my license to practice law in the State of Texas for a period of .....)."

The consent shall be signed and acknowledged by the accused.

Source: New.

C. PROCEDURE BY FORMAL COMPLAINT

Section 21. Rules of Civil Procedure to Govern, Except When in Conflict

The Texas Rules of Civil Procedure shall govern the procedure in all proceedings under Formal Complaint except where in conflict with specific provisions hereof.

Source: New. By virtue of this section, it has been unnecessary to carry forward or modify a number of the original rules.

Section 22. When Regular Judge Is Disqualified

When the regular judge of the District is disqualified or recuses himself, the Presiding Judge of the Administrative Judicial District of the county of residence of the accused attorney shall appoint for trial of the case another District Judge of the Administrative Judicial District in accordance with the statutes relative to Administrative Judicial Districts.

Source: New.

Section 23. Counsel for Prosecution of Disciplinary Actions

The Committee may appoint counsel for the prosecution of disciplinary actions. Such counsel may be compensated from State Bar funds upon

action by the Board of Directors, who may authorize payment of a retainer when the matter is first presented to them, and the remainder of the fee when counsel's services have been fully performed. Also, upon request made by the Committee to the District Attorney of the county in which the action is to be tried, it shall be his duty to represent it in such actions, either alone or in association with counsel for the Committee, at the option of the Committee.

Source: New. Compare Original Section 8.

Section 24. Requisites of Formal Complaint

The Formal Complaint shall be the pleading by which the proceeding is instituted. The Formal Complaint shall be filed in the name of the STATE OF TEXAS as Plaintiff against the accused attorney as defendant and shall set forth the professional misconduct with which the defendant is charged. The prayer may be that the defendant be "disbarred, suspended, or reprimanded as the facts shall warrant."

Source: New. Compare Original Sections 7 and 8.

Section 25. Answer of Defendant

The answer of the defendant to the Formal Complaint shall either admit or deny each allegation of the complaint, except where the defendant is unable to admit or deny the allegation, in which case defendant shall set forth the reasons why he cannot admit or deny.

Source: New. Compare Rule 8(b), Federal Rules of Civil Procedure [28 U.S.C.A.].

Section 26. Amendment in Order to Include Additional Misconduct

To avoid multiplicity of actions, the Formal Complaint may be amended, by leave of the trial judge, at any time prior to the conclusion of the trial, to include additional misconduct coming to the attention of the Committee.

Source: New.

Section 27. Preferred Setting

Proceedings under Formal Complaint shall be entitled to preferred setting at the request of either party.

Source: New.

Section 28. Judgment

If the court shall find from the evidence in a case tried without a jury, or from the verdict of the jury, if there be one, that the defendant is guilty of no professional misconduct, he shall enter judgment so declaring and dismiss the complaint; but if he shall find the defendant guilty, he shall determine whether the party shall be (a) reprimanded, or (b) suspended from practice (in which case he shall fix the term of suspension), or (c) disbarred; and he shall enter judgment accordingly.

If the judgment be one finding the defendant guilty as aforesaid, it shall direct transmittal of certified copies of the judgment and complaint to the Secretary of the State Bar and the Clerk of the Supreme Court; and the latter shall make proper notation on the membership rolls.

Source: New. Compare Original Sections 11 and 13.

Section 29. Costs Adjudged against Plaintiff

Any costs adjudged against the plaintiff shall be paid by the State Bar.

Source: New.

Section 30. Appeal. No Supersedeas

Either party to such proceeding shall have the right of appeal to the Court of Civil Appeals, but if the judgment appealed from be one suspending or disbarring the defendant, he shall not be entitled to practice law in any form while the appeal is pending, and he shall have no right to supersede the judgment by bond or otherwise.

Source: See Original Section 12. Elimination of supersedeas is new.

Section 31. Plaintiff Exempt from Cost Bond

No cost bond shall be required of the plaintiff in any court in a proceeding under Formal Complaint. In lieu thereof, when cost bond would otherwise be required, memorandum shall be filed setting forth the exemption under this Rule.

Source: New.

D. REINSTATEMENT

Section 32. Petition for Reinstatement after Disbarment

At any time after the expiration of five years from the date of final judgment of disbarment of a member, he may petition the District Court of the county of his residence for reinstatement. The petition shall allege in substance that petitioner at the time of filing is of good moral character, and since his disbarment, has been living a life of generally good conduct, and that he has made full amends and restitution to all persons, if any, naming them, who may have suffered pecuniary loss by reason of the misconduct for which he was disbarred. The petition shall state the name and address of the Chairman of the District Grievance Committee and the name and address of the Secretary of the State Bar.

Source: Original Section 32, with changes. Note change from two to five years.

Section 33. Notice, Hearing and Judgment

The court shall examine the petition and, if satisfied that it states sufficient grounds to authorize reinstatement under these rules, shall fix by order endorsed on the petition a time and place for a hearing, and shall direct the clerk to serve each of the parties required to be named in the petition, by mailing to each of them by registered mail, return receipt requested, a certified copy of such petition and order. Thereafter, in term time or vacation, after the expiration of not less than fifteen days from the date of mailing of such notices, the court shall proceed without the aid of a jury to hear testimony both for and against the petitioner. Any of the parties named in such petition may contest the granting of such petition and may introduce evidence in opposition. If the court is satisfied that all the material allegations in the petition are true and that the ends of justice will be subserved, the court may reinstate the petitioner and enter judgment accordingly.

No judgment of reinstatement shall be entered by default, but the court in all cases shall hear evidence on such petition before rendering judgment. Either party to such hearing shall have the right of appeal from the judgment as provided in this Article. After final judgment granting reinstatement, the petitioner shall furnish both the Clerk of the Supreme Court and the Secretary of the State Bar a certified copy of such judgment, and shall pay all membership dues for the current fiscal year. His name, as a member of the State Bar, shall be entered then on the rolls of the Clerk of the Supreme Court.

Source: Original Section 15, with slight change.

E. UNAUTHORIZED PRACTICE OF LAW

Section 34. Grievance Committee May Investigate and Sue

It shall be the duty of each Grievance Committee and its members to receive complaints of unauthorized practice of the law by laymen and lay agencies, and the participation of attorneys therein. In each case, the Committee shall make such investigation as it deems appropriate, in which connection it shall have the benefit of Sections 13, 14 and 15.

Each Grievance Committee may institute and prosecute suits or proceedings to suppress, prohibit, or prevent such unauthorized practice, or take such other action as it may deem advisable. Authority to file suit in the name of the Committee may be conferred by resolution adopted at a meeting, or without a meeting, by individual authorization of a majority of the members. Section 23, with reference to representation by counsel, shall also apply in unauthorized practice suits or proceedings, but nothing herein shall be construed as requiring procedure by Formal Complaint, except in actions against attorneys seeking suspension or disbarment.

The Board of Directors may from time to time employ a suitable person or persons to make investigation of the unauthorized practice of law, or of the participation of attorneys therein, or to perform such other duties as the Board may require, such persons to receive compensation as fixed by the Board.

These rules shall be cumulative of all other laws relating to the unauthorized or the unlawful practice of the law, and nothing herein shall be construed as affecting the right of any lawyer or group or association of lawyers to sue on behalf of the profession.

Source: Original Section 35 with sundry changes.

F. MISCELLANEOUS PROVISIONS

Section 35. Non-Liability of State Bar and Its Members

Neither the State Bar nor its Grievance Committee or any member thereof, shall be liable to any member of the State Bar, or to any other person charged or investigated by said Committees, for any damages incident to such investigation, or any complaint, charge, prosecution, proceeding, or trial.

Source: Original Section 36 virtually unchanged.

Section 36. Expense of Grievance Committees

All traveling expenses, court costs, and all other expenses reasonably incurred in the discharge of the duties of the Grievance Committees, and of individual members thereof, when approved by the Chairman of the Committee and the Secretary of the State Bar, shall be paid out of the State Bar funds, after filing of itemized statement thereof with the Secretary.

Clerks of court, sheriffs, and other officers shall receive the same fee for their services in carrying out the applicable provisions of these rules as such officers would receive if performing similar services in connection with other suits.

Source: Original Section 37, with slight changes.

G. UNAUTHORIZED PRACTICE COMMITTEE

Section 37. Unauthorized Practice Committee, Appointment of

The President shall appoint an Unauthorized Practice Committee of the State Bar, to consist of seven members who, except as herein provided, shall serve for a term of three years, beginning with the adjournment of the annual meeting of the State Bar, all members of the Committee being eligible to re-appointment. The President shall designate each year which member shall act as Chairman. A majority of the Committee shall constitute a quorum.

Since the Committee as constituted at present consists of nine members with staggered terms of three years, the President, in making the first appointment after this amended rule has been adopted and become effective, shall appoint but one member. The following year, the President shall appoint one member for a two-year term and two for three-year term, to the end that thereafter the terms of no fewer than two or more than three members shall expire each year.

Section 38. Unauthorized Practice Committee, Functions of

The Unauthorized Practice Committee shall keep itself and the State Bar informed with respect to the unauthorized practice of the law by laymen and lay agencies and the participation of attorneys therein, and concerning methods for the prevention thereof. The Committee shall seek the elimination of such unauthorized practice by such action and methods as may be appropriate for that purpose, including the cooperation with, and advice and assistance to, the Grievance Committee and to Bar association committees.

Section 39. Unauthorized Practice Committee, Suits by

The Unauthorized Practice Committee shall have concurrent jurisdiction with the Grievance Committees so far as concerns institution of unauthorized practice suits and proceedings, as set forth under the State Bar Rules, and authority to file suit in the name of the Committee may be conferred by resolution adopted at a meeting, or without a meeting, by individual authorization of a majority of the members.

Section 40. Conferences with Lay Groups

Conferences with representatives of lay groups, whose activities may approach the practice of law, for the purpose of promoting the cooperation of such groups shall be under the supervision of the Unauthorized Practice Committee. Upon request by the Chairman, the President shall appoint a special Conference Committee for conference with a specific lay group. Any Statements of Principles (or Policies) entered into in such conferences, along the line of those promulgated by National Conference Committees, shall be entered into subject to the approval of the Board of Directors.

Section 41.

The Miscellaneous Provisions of Article XII of the State Bar Rules (Sections 35 and 36) shall apply also with respect to the Unauthorized Practice Committee and its operations.

TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

1. DISTRICT ATTORNEYS

Art. 326k—12. Counties of 70,000 to 220,000 and counties of 39,000 to 50,000; 30th Judicial District

Sec. 2a. Provided that in the 30th Judicial District of Texas the salary of the investigators and assistants appointed by the District Attorney may be fixed at a sum of not more than Six Thousand Dollars ($6,000) per annum and the salary of the stenographer appointed by the District Attorney may be fixed at a sum of not more than Three Thousand, Six Hundred Dollars ($3,600) per annum. Added Acts 1951, 52nd Leg., p. 206, ch. 121, § 1, as amended Acts 1953, 53rd Leg., p. 465, ch. 151, § 1.

Emergency. Effective May 14, 1953.

Art. 326k—22. Criminal district attorney for Smith County

Section 1. The constitutional office of Criminal District Attorney for Smith County is hereby created, and said Criminal District Attorney of Smith 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. 2. There shall be elected by the qualified electors of Smith County, Texas, at the general election in November, 1954, and at the general election every two (2) years thereafter, an attorney for said district who shall be styled the Criminal District Attorney of Smith County, who shall hold office for a period of two (2) years and until his successor is elected and qualified.

Sec. 3. It shall be the duty of the Criminal District Attorney of Smith County or his assistants, as herein provided, to be in attendance upon each term and all sessions of the District Courts of Smith County, Texas, and all of the sessions and terms of all of the inferior courts of Smith 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 Smith County in all matters pending before such courts and any other court where Smith County has pending business of any kind, matter or interest. The Criminal District Attorney of Smith County shall have and exercise, in addition to the specific powers given and the duty imposed upon him by this Act, all such powers, duties, and privileges within Smith County as are now by law conferred, or which may hereafter be conferred upon the District and County Attorneys in the various counties and judicial districts of this State. He shall collect such

fees, commission and perquisites 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 Smith County shall be commissioned by the Governor and shall receive as salary and compensation the following and no more: a salary of Five Hundred ($500.00) Dollars from the State of Texas as provided in the Constitution of the State of Texas for the salary of District Attorneys, and the sum of not less than Six Thousand, Two Hundred Fifty ($6250.00) Dollars nor more than Six Thousand, Five Hundred Twelve and 50/100 ($6512.50) Dollars per annum to be paid out of the officers salary fund of Smith County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

Sec. 5. The Criminal District Attorney of Smith County, for the purpose of conducting affairs of this office, and with the approval of the Commissioners Court shall be and is hereby authorized to appoint three (3) assistants and to fix their salaries at a sum of not less than Three Thousand ($3,000.00) Dollars per annum. He may employ one (1) stenographer and fix her salary at not less than One Thousand, Two Hundred ($1,200.00) Dollars per year.

Sec. 6. The Assistant Criminal District Attorneys of Smith County, when so appointed, shall take the constitutional oath of office and the Criminal District Attorney of Smith 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 Smith County, Texas, except in the City Courts of the City of Tyler and the other incorporated cities and towns in Smith County. Said Assistant Criminal District Attorneys of Smith 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 Smith County and exercise any power, and perform any duty conferred by law upon the Criminal District Attorney of Smith County.

Sec. 7. Upon the effective date of this Act the Governor of Texas shall immediately appoint a criminal District Attorney of Smith County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Smith County is abolished from and after the effective date of this Act.

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 portions of the Act; and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity. Acts 1953, 53rd Leg., p. 44, ch. 36.

Emergency. Effective March 19, 1953.

Section 9 of the Act of 1953 repealed conflicting laws or parts of laws.

Title of Act:

An Act abolishing the office of County Attorney of Smith County, Texas; creating the constitutional office of Criminal District Attorney for Smith County; providing for the election, tenure of office, and prescribing the qualifications, powers, duties, compensation and expenses of said office; providing for the appointment of assistants and a stenographer by the Criminal District Attorney of Smith County; providing for their compensation, prescribing their powers and duties; providing for the appointment of the Criminal District Attorney until the next general election and until his successor shall qualify; providing for a severability clause; providing for a repealing clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 44, ch. 36.

Art. 326k—23. Criminal district attorney for Bragoria County

Creation of office; qualifications; oath; bond

Section 1. The Constitutional office of Criminal District Attorney for Brazoria County is hereby created and said Criminal District Attorney of Brazoria County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and term of office

Sec. 2. There shall be elected by the qualified electors of Brazoria County at its general election in November 1954 and at the general election every two years thereafter an attorney for said county who shall be styled the Criminal District Attorney of Brazoria County, and who shall hold office for a period of two years and until his successor is elected and qualified.

Powers, duties and privileges; fees, commissions and prerequisites

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

Commission; salary

Sec. 4. The Criminal District Attorney of Brazoria County, Texas, shall be commissioned by the Governor and shall receive as salary and compensation the following, and no more: A salary of Five Hundred ($500.00) Dollars from the State of Texas as provided in the Constitution of the State of Texas for the salary of District Attorneys, and the sum of not less than Nine Thousand, Five Hundred ($9,500.00) Dollars per annum to be paid out of the officers salary fund of Brazoria County, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

Assistant and other employees

Sec. 5. The Criminal District Attorney of Brazoria County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court shall be and is hereby authorized to appoint one assistant and fix the salary as follows: Said assistant shall receive not less than Four Thousand, Eight Hundred ($4,800.00) Dollars per annum.

The Criminal District Attorney of Brazoria County may employ one investigator who shall receive a salary of not less than Four Thousand,

Two Hundred ($4,200.00) Dollars per annum, and he may employ two stenographers and fix their salaries at not less than One Thousand, Eight Hundred ($1,800.00) Dollars per annum, and he may employ one chief clerk and fix his salary at not less than Three Thousand, Six Hundred ($3,600.00) Dollars per annum. All of the salaries mentioned in this section shall be payable from the officers salary fund, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

In addition to the salaries provided the Criminal District Attorney, his assistants and investigators, the Commissioners Court of Brazoria County may allow such Criminal District Attorney, his assistants and investigators such necessary expenses as within the discretion of the court seems reasonable and said expenses shall be paid as provided by law for other such claims of expenses.

Additional assistants and employees

Sec. 6. Should the Criminal District Attorney be of the opinion that the number of assistants, investigators, stenographers, or clerks as provided above is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the Commissioners Court appoint additional assistants, investigators, clerks or stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Brazoria County, Texas.

Oath of assistant and investigators; powers and duties

Sec. 7. The Assistant Criminal District Attorneys of Brazoria County and the investigator or investigators, when so appointed shall take the constitutional oath of office, and said Criminal District Attorney of Brazoria 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 Brazoria County, Texas, and any and all civil matters in any court anywhere involving interest, crime or right of Brazoria County as well as perform the other statutory or constitutional duties of District and County Attorneys.

Said Assistant Criminal District Attorneys of Brazoria County are authorized to administer oaths, file informations, examine witnesses before the grand jury and generally perform any duty devolving upon the Criminal District Attorney of Brazoria County and exercise any power and perform any duty conferred by law upon the Criminal District Attorney of Brazoria County.

Appointment by Governor; office of county attorney abolished

Sec. 8. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Brazoria County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Brazoria County is abolished from and after the effective date of this Act.

District attorney of 23rd judicial district

Sec. 9. Upon the effective date of this Act the District Attorney of the 23rd Judicial District of Texas shall only represent the State of Texas in the counties of Fort Bend, Wharton and Matagorda.

The provisions of this Act shall not affect the office of District Attorney or the duties and powers of such District Attorney in the counties of Fort Bend, Wharton and Matagorda, and the District Attorney of the 23rd Judicial District shall continue to perform his duties in the counties of Fort Bend, Wharton and Matagorda as before, and it is specifically understood that this bill applies only to Brazoria County and not to the counties of Fort Bend, Wharton and Matagorda.

From the effective date of this bill the District Attorney of the 23rd Judicial District shall continue to fulfill the duties of District Attorney in the counties of Wharton, Fort Bend, and Matagorda, but his duties in the County of Brazoria shall be divested from him and invested in the resident Criminal District Attorney of Brazoria County, Texas, as created by this bill.

The District Attorney of the 23rd Judicial District shall only stand for election and be elected from the counties of Fort Bend, Wharton and Matagorda at the next general election, and a District Attorney for the 23rd Judicial District shall be elected every two years from the Counties of Fort Bend, Wharton and Matagorda at the general election every two years thereafter, but it is specifically understood that the present District Attorney of the 23rd Judicial District shall continue in office as such District Attorney in the counties of Fort Bend, Wharton and Matagorda until the next general election and until his successor is elected and qualified.

Partial invalidity

Sec. 10. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act; and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity. Acts 1953, 53rd Leg., p. 409, ch. 118.

Emergency. Effective May 12, 1953.

Section 11 of the Act of 1953 repealed conflicting laws or parts of laws.

Art. 326k—24. One hundred and ninth district; compensation of district attorney

Section 1. The District Attorney of the 109th Judicial District shall be compensated for his services by an annual salary in an amount not to exceed the salary paid to the highest paid County Attorney of any county in the said 109th Judicial District.

Sec. 2. The Commissioners Courts of the counties comprising the 109th Judicial District are hereby authorized to pay the supplement to the salary paid the District Attorney by the State in such amount that the total salary paid such District Attorney shall not exceed the maximum prescribed in Section 1 of this Act.

Sec. 3. The supplemental salary to be paid the District Attorney of the 109th Judicial District by the Commissioners Courts of the counties comprising said District shall be paid on a pro rata basis according to the population of each county listed in the last preceding Federal Census. Acts 1953, 53rd Leg., p. 567, ch. 212.

Emergency. Effective May 27, 1953.

Title of Act:

An Act fixing the salary of the District Attorney of the 109th Judicial District of Texas; authorizing the Commissioners Courts of the counties comprising the 109th Judicial District to supplement the salary of the District Attorney and providing the method of supplementation; and declaring an emergency. Acts 1953, 53rd Leg., p. 567, ch. 212.

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

Section 1. The District Attorney of the Thirtieth Judicial District of this State shall be paid a salary in an amount not to exceed Six Thousand, Five Hundred Dollars ($6,500) per year. The portion of such salary to be paid by the State shall not exceed the salary provided in Chapter 442, Acts of the Forty-fourth Legislature, Second Called Session, 1935, as amended,[1] for District Attorneys in like Districts, and the amounts paid by the State shall be in accordance with each biennial appropriation act and any supplementary appropriations for the payment of salaries of District Attorneys in like Districts.

Sec. 2. The Commissioners Court of Wichita County, Texas, in said Thirtieth Judicial District, is hereby authorized to supplement the salary paid to the District Attorney by the State of Texas in such an amount that the total salary paid shall not exceed the maximum provided for in Section 1 hereof, said total salary to be fixed by the Commissioners Court of said County.

Sec. 3. If any paragraph, phrase, clause, or section of this Act be held invalid, it shall not affect the validity of said Act, but it is expressly declared to be the intention of the Legislature that it would have passed the balance of said Act omitting such portion as may be held invalid. Acts 1953, 53rd Leg., p. 590, ch. 232.

1 Article 3886f.

Emergency. Effective May 27, 1953.

Title of Act:

An Act fixing the salary of the District Attorney of the Thirtieth Judicial District; providing a severability clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 590, ch. 232.

Art. 326k—26. District attorney for Criminal District Court of Harris County

Office created; qualifications; oath; bond

Section 1. The constitutional office of District Attorney for the Criminal District Court of Harris County is hereby created, effective September 1, 1953, and said District Attorney 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.

Election

Sec. 2. There shall be elected by the qualified electors of Harris County, Texas, at the General Election in November, 1954, and at the General Election every two (2) years thereafter an attorney for said district who shall be styled the District Attorney for the Criminal District Court of Harris County, and who shall hold office for a period of two (2) years and until his successor is elected and qualified.

Duties and powers

Sec. 3. It shall be the duty of the District Attorney, or his assistants, as herein provided to be in attendance upon each term and all sessions of the district courts of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their primary duty to represent the State of Texas in criminal cases pending in the district and inferior courts of Harris County, Texas. The District Attorney shall also have control of any and all cases heard on habeas corpus before any

civil district court of Harris County as well as before the Criminal Courts of said county. He shall have and exercise in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all such powers, duties and privileges within Harris County as are now by law conferred and which may hereafter be conferred on District Attorneys in various counties and judicial districts of this State relative to criminal matters for and in behalf of the State of Texas.

Commission; compensation

Sec. 4. The District Attorney shall be commissioned by the Governor and shall receive as compensation therefor, out of funds provided in the biennial Appropriation Act, and from the officers salary fund of Harris County an annual sum, the total of which shall be fixed by the Commissioners Court of Harris County at not less than Nine Thousand, Nine Hundred Dollars ($9,900) nor more than Eleven Thousand, Eight Hundred Dollars ($11,800). The allocation heretofore made under the provisions of Subsection B, Section 13 and Section 15, Subsection A of Chapter 465, Section 6(a), Second Called Session, Acts, Forty-fourth Legislature, to the Criminal District Attorney of Harris County shall be made and allocated on the same basis to the District Attorney for the Criminal District Court of Harris County in the biennial Appropriation Act.

Assistants, investigators, reporters and secretaries

Sec. 5. Whenever the District Attorney shall require the services of assistants, investigators, reporters and secretaries in the performance of his duties, he shall apply to the Commissioners Court for authority to appoint such assistants, investigators, reporters and secretaries, stating by sworn application the number needed, the position to be filled, the duties to be performed and the amount to be paid. The Court shall make its order authorizing the appointment of such assistants, investigators, reporters, and secretaries and fix the compensation to be paid them, and determine the number to be appointed as in the discretion of said Court may be proper. Provided that in no case shall the Commissioners Court, or any member thereof, attempt to influence the appointment of any person as assistant, investigator, reporter or secretary in the District Attorney's office. All of the salaries payable by Harris County provided for in this Act shall be paid from the officers salary fund if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

Oath and powers of assistant district attorneys

Sec. 6. The Assistant District Attorneys of Harris County, when so appointed, shall take the constitutional oath of office, and they are hereby authorized to administer oaths, file information, examine witnesses before the grand jury, and perform any duty devolving upon the District Attorney and shall exercise any power and perform any duty conferred by law upon the District Attorney relative to criminal matters.

Temporary appointment

Sec. 7. On September 1, 1953, the Governor of Texas shall immediately appoint the District Attorney for the Criminal District Court of Harris County, who shall hold office until the next General Election and until his successor is duly elected and qualified.

Office of criminal district attorney abolished

Sec. 8. The constitutional office of Criminal District Attorney of Harris County is abolished from and after September 1, 1953, and on September 1, 1953, the Criminal District Attorney for the Criminal District Court of Harris County shall transfer all criminal matters that his office is handling to the District Attorney including papers, documents, and instruments in connection with each and every criminal case. On September 1, 1953, the Criminal District Attorney of Harris County shall transfer all civil matters to the County Attorney of Harris County.

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 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 1953, 53rd Leg., p. 784, ch. 315.

Emergency. Effective June 5, 1953.

Section 10 of the Act of 1953 repealed conflicting laws or parts of laws. Section 11 provided that the provisions of the act should become operative on September 1, 1953.

2. COUNTY ATTORNEYS

Art. 331h. County Attorney of Harris County

Office created; qualifications; oath; bond

Section 1. The Constitutional office of County Attorney of Harris County is created effective September 1, 1953, and said County Attorney of Harris County shall possess all the qualifications, take the oath and give the bond required by the laws of this State of other County Attorneys.

Election; term of office

Sec. 2. There shall be elected by the qualified electors of Harris County at the general election in 1954, and at the general election every two years thereafter, an attorney for said county who shall be styled the County Attorney of Harris County and who shall hold office for a period of two years and until his successor is elected and qualified.

Duties

Sec. 3. It shall be the primary duty of the County Attorney of Harris County or his assistants to represent the State of Texas, Harris County and the officials of such county in all civil matters pending before the courts of Harris County and any other courts where the State of Texas, Harris County and the officials of such county have matters pending. It is understood that the County Attorney will represent the State of Texas, Harris County and the officials of such county in such civil matters as is now required by law of Criminal District Attorneys, District Attorneys, and County Attorneys with the exception that the County Attorney shall represent the Flood Control District of Harris County and perform any and all other duties imposed by this Act without any additional fee, compensation or perquisite other than that paid by Harris County out of its officers salary fund.

Commission; salary

Sec. 4. The County Attorney of Harris County shall be commissioned in accordance with the law and he shall receive such annual salary as may be provided by general law.

Assistant county attorneys; oath; powers and duties

Sec. 5. The Assistant County Attorneys of Harris County, when appointed, shall take the constitutional oath of office and are authorized to perform any and all duties devolving upon the County Attorney of Harris County and may exercise any power and perform any duty conferred by law upon the County Attorney of Harris County.

Appointments; payment of salaries

Sec. 6. On September 1, 1953, the Commissioners Court of Harris County shall appoint a County Attorney of Harris County who shall hold office until the next general election and until his successor is duly elected and qualified. The Commissioners Court shall have authority from time to time to authorize the appointment of assistants, investigators and secretaries as said Commissioners Court shall deem necessary to the efficient operation of the office of County Attorney. The salaries of the County Attorney and such assistants, investigators and secretaries, as well as the operating expenses of the office, shall be paid out of county funds and in no way be an obligation of the revenues of the State of Texas.

Partial invalidity

Sec. 7. 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 1953, 53rd Leg., p. 786, ch. 316.

Emergency. Effective June 5, 1953.

Section 8 of the Act of 1953 repealed conflicting laws or parts of laws. Section 9 provided that the act should become operative on September 1, 1953.

Title of Act:

An Act creating the Constitutional office of County Attorney of Harris County; providing for the election, tenure of office and prescribing the qualifications, powers and duties of said office; providing for the appointment of a County Attorney by the Commissioners Court on September 1, 1953; providing for the appointment of assistants, investigators and secretaries; providing for their powers and duties; providing for a severability clause; providing for a repealing clause; providing that this Act shall be operative on September 1, 1953; and declaring an emergency. Acts 1953, 53rd Leg., p. 786, ch. 316.

TITLE 19A—THE SECURITIES ACT

Art. 600a. The Securities Act

Penal provision

Sec. 30. Any dealer, agent, salesman, principal officer, or employee, who shall, within this State, sell, offer for sale or delivery, solicit subscriptions to or orders for, dispose of, invite offers for, or who shall deal in any other manner in any security or securities, without being registered as in this Act provided, or who shall within this State, sell, offer for sale or delivery, solicit subscriptions to and orders for, dispose of, invite orders for, or who shall deal in any other manner in any security or securities issued after the effective date of this Act without having secured a permit as herein provided, or who knowingly sells or offers for sale any security or securities named or listed in a notice in writing given him by the Secretary of State that, in the opinion of the Secretary of State, the further sale or offer of sale of the security or securities named or listed in such notice would not be in compliance with this Act or would tend to work a fraud on any purchaser thereof or that the plan of business of the issuer of such security or securities is not fair, just and equitable, or who knowingly makes any false statement of fact in any statement or matter of information required by this Act to be filed with the Secretary of State, or in any advertisement, prospectus, letter, telegram, circular, or any other document containing an offer to sell or dispose of, or in or by verbal or written solicitation to purchase, or in any commendatory matter concerning any securities, with intent to aid in the disposal or purchase of the same, or who knowingly makes any false statement or representation concerning any registration made under the provisions of this Act, or who is guilty of any fraud or fraudulent practice in the sale of, offering for sale or delivery of, invitation of offers for, or dealing in any other manner in any security or securities, or who shall knowingly participate in declaring, issuing or paying any cash dividend by or for any person or company out of any funds other than the actual earnings of such person or company or from the lawful liquidation of the business thereof, shall be deemed guilty of a felony, and upon conviction thereof, shall be sentenced to pay a fine of not more than One Thousand ($1000.00) Dollars, or imprisoned in the penitentiary for not more than two (2) years, or by both such fine and imprisonment. As amended Acts 1951, 52nd Leg., p. 624, ch. 370, § 4.

TITLE 20—BOARD OF CONTROL

CHAPTER ONE—GENERAL PROVISIONS

Art. 601. Creation; members; executive director

The State Board of Control is created hereby. It shall consist of three members, all of whom shall be citizens of Texas. They shall be appointed by the Governor, by and with the advice and consent of the Senate of Texas. The term of office of each member shall be six years, except that in making the first appointments, the Governor shall appoint one member for a term of two years, one member for a term of four years and one member for a term of six years, so that the term of one member shall expire each two years. Upon the appointment of such members, and each two years thereafter, the Governor shall designate one of such members as Chairman.

No member of the present Board shall be eligible for appointment as Executive Director of the Board of Control as created by this Act; no member of the present Board may become eligible for appointment by resigning prior to this Act becoming law.

The members of the Board shall be public officials and shall take the Constitutional oath of office, and each shall give bond in form prescribed by the Attorney General in the sum of Fifty Thousand ($50,000.00) Dollars, payable to and to be approved by the Governor, conditioned for the faithful performance of his duties. Premiums for said bonds shall be payable from such appropriations for the Board of Control as are authorized by the Legislature. They shall devote such time to their duties as may be necessary to their discharge.

The Board shall employ a Director who shall serve until removed by the Board. He shall execute a bond payable to the State in such sum as the Board may deem necessary, to be approved by the Board and conditioned upon the faithful performance of his duties. Premiums for said bond also shall be payable from such appropriations for the Board of Control as are authorized by the Legislature. Such Director shall have had a minimum of ten (10) years of experience, within the fifteen (15) years preceding the date of his appointment, in the large scale purchasing or procurement of supplies, materials and equipment for public agencies or for private firms; and such experience must have demonstrated executive and organizational ability, and a knowledge of quality controls and the use of commodity specifications. Said Director shall manage the affairs of the Board of Control subject to and under the direction of the Board; and within ninety (90) days after his appointment, he shall prepare in writing and maintain currently thereafter a manual or manuals of purchasing instructions and procedures for the guidance of affected State departments and agencies. The Board may delegate such power, authority and duties to such Director as it may deem necessary and proper.

During the biennium beginning September 1, 1953, each member of said Board shall be compensated for his services at the annual rate of Two Thousand Five Hundred ($2,500.00) Dollars, and said Director shall be compensated for his services at the annual rate of Twelve Thousand

($12,000.00) Dollars; and the amounts actually due under said rates of compensation shall be paid from the appropriation made to the Board of Control for salaries and wages in Items 1 and 2, as set forth in Article III of House Bill No. 111, Acts of the 53rd Legislature, Regular Session. Balances not hereinbefore allocated may be used for other salaries. Added Acts 1953, 53rd Leg., p. 559, ch. 208, § 1.

Section 1 of the amendatory Act of 1953 repealed former article 601 and section 2 added a new article bearing the same number, Section 3 amended section 602. Section 4 read as follows: "It is the intent and purpose of tnis Act, and this Act shall and does abolish the Board of Control as now constituted, and creates a new Board having the same name, to wit: 'The State Board of Control,' with all the powers, duties and responsibilities heretofore vested in the Board of Control abolished by this Act, as well as the powers vested in such Board by this Act. All laws and parts of laws in conflict with this Act are repealed hereby to the extent of such conflict only."

Emergency. Effective Sept. 1, 1953.

Art. 602. Quorum; minutes; clerical help; equipment and supplies; expenses

Two members of the Board shall constitute a quorum, and a quorum shall be necessary to transact any official business. The Board shall keep or cause to be kept minutes of its proceedings in a book provided for that purpose. It may employ or cause to be employed a secretary and such other clerks, stenographers, auditors, bookkeepers and clerical help as may be necessary in the administration of its department, within the limits of the appropriations that may be made for the work of the Department. It may purchase or cause to be purchased such equipment and supplies as may be necessary. The members of the Board shall be entitled to travel and other expense incurred in the discharge of their duties. As amended Acts 1953, 53rd Leg., p. 559, ch. 208, § 2.

CHAPTER SIX—DIVISION OF ESTIMATES AND APPROPRIATIONS

Art.
689—9a. Taxes included in estimated revenues of year in which levied and collected [New].

Art. 689a—9a. Taxes included in estimated revenues of year in which levied and collected

The County Judge in preparing the budget to cover all proposed expenditures of the county government for the succeeding year shall estimate the revenue to be derived from taxes to be levied and collected during such succeeding year, and such revenue shall be included in the estimated revenues available to cover the proposed budget. Acts 1931, 42nd Leg., p. 339, ch. 206, § 10a, added Acts 1953, 53rd Leg., p. 1056, ch. 439, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict.

TITLE 20A—BOARD AND DEPARTMENT OF PUBLIC WELFARE

Art. 695C. Public Welfare Act

Commodity distribution

Sec. 7–A. There is hereby created in the State Department of Public Welfare a new Division to be known as the 'Commodity Distribution Division.' The State Department of Public Welfare shall be responsible for the distribution of such commodities as may be made available to the State Department of Public Welfare by the United States Department of Agriculture or any other federal agency or department. The State Department of Public Welfare shall establish policies of operation and place into effect appropriate rules and regulations to assure the widest and most efficient distribution of agricultural commodities to eligible recipients of the State. The Department shall have the authority to establish Distribution Districts on a geographical basis and to employ such Distributing Agents as may be determined necessary by the Executive Director of the State Department of Public Welfare and/or make such arrangements to efficiently effect the distribution of commodities as the Department shall deem necessary.

The State Department of Public Welfare shall select and is hereby authorized to employ such personnel as it may deem necessary to carry out the provisions of this Act.

In order to effectuate the provisions of this Act, the State Department of Public Welfare is hereby authorized and empowered to enter into agreements with the United States Department of Agriculture and any other federal agency or department as a prerequisite to the allocation of commodities, and with eleemosynary institutions, schools and other eligible agencies and recipients of commodities. The State Department of Public Welfare is further authorized and empowered to enter into contracts or agreements with any State institutions or agencies or with private agencies for the processing of perishable commodities in order that they may be preserved for subsequnt distribution to eligible recipients, such contracts or agreements to be on a nonprofit basis, with the cost of processing to be borne by each recipient on a pro rata basis in relation to the amount of the processed commodities received by the respective Districts. It is further authorized and empowered to levy and assess reasonable handling charges against such recipients to the extent necessary in the distribution of commodities provided that the total operations will be conducted on a nonprofit basis. Such assessments shall be uniform in each Distribution District and at a rate agreed upon by the State Department of Public Welfare, provided that such assessments shall not exceed Forty Cents (40¢) per annum per capita recipient, the assessments to be made by the State Department of Public Welfare at such times and in such amounts, not to exceed the limitation herein stated, as the Department deems necessary for the proper administration of this Program.

It is further provided that the money to be assessed shall be paid to the State Department of Public Welfare and shall be used for no other purposes except for the necessary economic operation of the Program subject to rules and regulations which may be established by the State Department of Public Welfare, by the provisions of this Act, and by the provisions of the general appropriation Acts of the Legislature. The funds received by the State Department of Public Welfare shall be de-

posited in a separate account in the State Treasury, and shall be subject to withdrawals upon authorization by the Executive Director of said Department. The State Department of Public Welfare is hereby authorized and empowered to establish in each Distribution District, under the direction of the State Department of Public Welfare, a revolving fund or petty cash expense fund for the purpose of making emergency payments for services or goods, or other necessary emergency activities. The amounts of such funds shall be set by the Executive Director of the State Department of Public Welfare in relation to the anticipated needs of the respective Districts and in accordance with rules and regulations prescribed by the State Department of Public Welfare. Creation and reimbursement of said revolving fund shall be paid out of assessments collected by the State Department of Public Welfare from the recipients of commodities.

The Agent shall be bonded and it shall be the duty of the State Department of Public Welfare to audit his records at least once annually and at any other time as deemed expedient by the Department.

The revolving fund at the disposal of each Distributing Agent shall be deposited in a bank designated by the Executive Director of the State Department of Public Welfare in an account to be known as the "Commodity Distribution Fund" and such money shall be expended upon the authority of the Distributing Agent under the direction of the State Department of Public Welfare. The Distributing Agent will make a monthly report to the State Department of Public Welfare of funds received and disbursed. In the event of the termination of the Commodity Distribution Program, the money remaining on hand in the "Commodity Distribution Fund" in each District, after all due and just accounts are paid, will be refunded to the contributors on a pro rata basis. In the event of the termination of the Commodity Distribution Program, the money remaining on hand in the separate special fund in the bank in Austin created pursuant to and in accordance with the provisions of this Act, after all due and just accounts are paid will be refunded to the contributors on a pro rata basis.

All equipment or property now in use by the various Distributing Agents over the State which was purchased from funds made available directly or indirectly from the distribution of commodities are hereby transferred to the State Department of Public Welfare and from and after the effective date of this Act shall be the responsibility of the State Department of Public Welfare. In the event of the termination of the Commodity Distribution Program, such equipment, or any subsequently purchased from the "Commodity Distribution Fund," shall be sold on the basis of competitive bids; the proceeds to be deposited in the "Commodity Distribution Fund" in the respective Districts and liquidated as provided elsewhere in this Act.

The State Department of Public Welfare is hereby authorized to sell used commodity containers and the proceeds from the sale of the used commodity containers in each District shall be deposited in the special fund known as the "Commodity Distribution Fund" to be used for the purpose of furthering the commodity program and expended as hereinbefore provided.

The State Department of Public Welfare may establish on a State and/or District level Advisory Boards to serve in advisory capacity to facilitate the operation of the Commodity Distribution Program; such Advisory Boards shall be of such size, membership, and experience as may be determined by the Executive Director of the Department of Public

Welfare to be essential for the accomplishment of the purposes of this Act not in conflict with or duplication of other laws on this subject. Added Acts 1953, 53rd Leg., p. 757, ch. 305, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Child-caring institutions

Sec. 8(a).

2. Provisions for License to Operate

(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 child-placing activities either from the parents or other person responsible for the child involved, or from the foster parents receiving the child; except that the natural parents, legal guardian, or foster parents may pay such agency a reasonable amount for the board, maintenance, and medical care of such child and may reimburse the agency for medical care and maintenance on behalf of the mother 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. As amended Acts 1953, 53rd Leg., p. 1040, ch. 428, § 1.

Emergency. Effective June 13, 1953.

Non-transferability of assistance; exemptions; death of recipient before warrant is cashed

Sec. 29. Old age assistance, aid to the blind, or aid to dependent children as provided for under the provisions of this Act shall not be transferable or assignable, at law or in equity, and none of the money paid or payable under the provisions of this Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any insolvency law; the provision of this Act providing for old age assistance, aid to the blind, and aid to dependent children shall not be construed as a vested right in the recipient of such assistance; provided, however, in case any person who is an approved recipient of old age assistance, aid to the blind, or aid to dependent children, living on the first day of any month, or living at the date of the issuance of the check, or living at the date of the mailing of the check, and entitled to assistance for that month, dies before the check issued for such assistance, for the month in which the death occurs, has been endorsed or cashed by recipient, the amount of said check may be paid to any person determined by the Department of Public Welfare to have been responsible for the caring of the recipient at the time of his death and responsible for the payment of obligations incurred; the Executive Director of the State Department of Public Welfare will endorse the check payable only to the person whom the Department of Public Welfare has determined was responsible for the care of the recipient at the time of the latter's death and who is responsible for the payment of obligations incurred by the recipient; the State Department of Public Welfare shall adopt reasonable rules and regulations prescribing a method of payment and limitations of such payments in such cases and the manner of ascertaining the person entitled to receive the same; provided, however, that payments to recipients under the above provisions shall be made only in such manner and

to such extent as are permissible under and consistent with the laws and regulations governing the disbursement of funds received through the Federal Social Security Board. And provided further, that all old age assistance, aid to the blind, and aid the dependent children warrants not cashed, as provided by this Act, within a reasonable time after issuance may be cancelled by the State Comptroller upon proper authorization of the State Department of Public Welfare. As amended Acts 1953, 53rd Leg., p. 381, ch. 104, § 1.

Emergency. Effective May 1, 1953.

Section 2 of the amendatory Act of 1953, Acts 1953, 53rd Leg., p. 757, ch. 305, made appropriations. Section 3 repealed conflicting laws or parts of laws to the extent of the conflict only. Section 4 provided that partial invalidity of the Act should not affect the validity of the remaining portions of the Act.

Section 2 of the amendatory Act of 1953, Acts 1953, 53rd Leg., p. 1040, ch. 428, repealed conflicting laws or parts of laws. Section 3 provided that partial invalidity should not affect the validity of the remaining portions of the Act.

Section 2 of the amendatory Act of 1953, Acts 1953, 53rd Leg., p. 381, ch. 104, repealed conflicting laws and parts of laws to the extent of the conflict. Section 3 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 695g. Federal old age and survivors insurance coverage for county and municipal employees

Definitions

Section 1. The following definitions of words and terms shall apply as used in this Act:

(a) The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act,[1] would not constitute "wages" within the meaning of that Act.

(b) The term "employment" means any service performed by an employee in the employ of a county or municipality or other political subdivision of the State other than services performed in connection with a proprietary function of said county or municipality or political subdivision except (1) service which in the absence of an agreement entered into under this Act would constitute "employment" as defined in the Social Security Act; or (2) service which under the Social Security Act may not be included in an agreement between the State and the Federal Security Administrator entered into under this Act.

(c) The term "employee" includes an officer of a county, municipality, or other political subdivision of the State.

(d) The term "State Agency" means the State Department of Public Welfare.

(e) The term "Federal Security Administrator" includes any individual to whom the Federal Security Administrator has delegated any of his functions under the Social Security Act[2] with respect to coverage under such Act of employees of States and their political subdivisions.

(f) The term "municipality" means incorporated cities, towns, and villages.

(g) The term "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pur-

suant thereto), as such Act has been and may from time to time be amended. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

1 26 U.S.C.A. § 1400 et seq.
2 42 U.S.C.A. § 301 et seq.

Agreements with Federal Security Administrator

Sec. 3. The State Agency is authorized to enter into agreements with the Federal Security Administrator to obtain Federal old-age and survivor's insurance coverage for employees of any of the counties, municipalities or other political subdivisions of the State other than employees engaged in performing services in connection with a proprietary function. These agreements may contain such provisions relating to coverage, benefits, contributions, effective date, modification, and termination of the agreement, administration, and any other appropriate matters consistent with the Constitution and laws of Texas as the State Agency and Federal Security Administrator shall agree. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

Agreements with governing bodies of counties, municipalities and other political subdivisions

Sec. 4. The State Agency is authorized to enter into agreements with the governing bodies of counties and with the governing bodies of municipalities and with the governing bodies of other political subdivisions of the State which are eligible for Social Security coverage under Federal law when the governing body of any of said counties or municipalities or other political subdivisions desire to obtain coverage under the old-age and survivor's insurance program for their employees, these agreements to embrace such provisions relating to coverage benefits, contributions, effective date, modification and termination of the agreement, administration, and any other appropriate matters consistent with the Constitution and laws of Texas as the State Agency and the governing body of the county, municipality or other political subdivision shall agree. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

Rules and regulations; terms of agreements

Sec. 5. The State Board of Public Welfare is authorized and directed to promulgate all reasonable rules and regulations it deems necessary to govern applications for and eligibility to participate in this program, and it shall prescribe the terms of the agreements necessary to carry out the provisions of this Act and to insure financial responsibility on the part of participating counties, municipalities or other political subdivisions of the State. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

Authority of governing bodies

Sec. 6. The respective governing bodies of the various counties, municipalities or other political subdivisions of the State which are now or shall hereafter become eligible under applicable Federal requirements are hereby authorized to enter into all necessary agreements with the State Agency to enable the employees of the respective counties, municipalities and other political subdivisions to have coverage under the Social Security Act. The respective governing bodies are authorized to pay contributions as required by these agreements from those funds from which the covered employees receive their compensations, and it is expressly provided that all prior laws and parts of laws which fix a maximum compensation for any covered employees of counties are hereby amended to allow payment of the matching contribution necessary to

this program in addition to any maximum compensations otherwise fixed by law. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

Submission and approval of plans

Sec. 7. Each county, municipality or other political subdivision of the State is authorized to submit for approval by the State Agency a plan for extending the benefits of the Federal old-age and survivor's insurance system to employees of the county, municipality or political subdivision other than those engaged in performing services in connection with a proprietary function of the subdivision. The State Agency shall not finally refuse to approve a submitted plan and shall not terminate an approved plan without reasonable notice and opportunity for hearing to the affected county, municipality or political subdivision. Each plan shall be approved by the State Agency if it finds it is in conformity with requirements provided in the regulations of the State Agency, except that no plan shall be approved unless: (a) it is in conformity with requirements of the applicable Federal law and with the Federal-State agreements; (b) it specifies the source or sources from which the funds necessary to make the payments required are to be derived and contains guarantees that these sources will be adequate for this purpose (the State Agency may by appropriate rules and regulations require guarantees in the form of surety bonds, advance payments into escrow, detailed representations and assurances of priority dedication, or any legal undertakings to create adequate security that each county, municipality and political subdivision will be financially responsible for its share in this program for at least a minimum period equivalent to that specified by Federal requirements to precede coverage cancellation); (c) it provides such methods for administration of the plan by the county, municipality or political subdivision as are found by the State Agency to be necessary for proper and efficient administration; (d) it provides the county, municipality or political subdivision will make reports in such form and containing such information as the State Agency may from time to time require and will comply with such provisions as the State Agency or appropriate Federal authorities may from time to time find necessary to assure the receipt, correctness and verification of these reports; and (e) it authorizes the State Agency to terminate the plan in its entirety if it finds there has been a failure to comply with any provision contained in the plan, this termination to take effect at the expiration of such notice and upon such conditions as may be provided by regulations of the State Agency consistent with applicable Federal law. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

Contributions

Sec. 8. Each county, municipality or other political subdivision as to which a plan has been approved may and shall pay to the State Agency, with respect to employees' wages, at such time as the State Agency may by regulations prescribe, contributions in the amounts and at the rates specified by the applicable agreement entered into pursuant to the Federal-State agreement. Counties, municipalities or other political subdivisions required to make such payments are authorized, in consideration of the employees retention in or entry upon employment, to impose upon its employees as to services which are covered by an approved plan, a contribution with respect to wages in keeping with applicable State and Federal requirements. Contributions so collected shall be paid to the State Agency in partial discharge of the liability of the county, municipality or political subdivision, but failure to deduct

contributions from employees' wages shall not relieve the employee or the employer of liability for the contribution. If more or less than the correct amount of any contribution is paid or deducted, adjustments or refunds shall be made in the manner and at the time prescribed by the State Agency. Matching contributions by the employing counties, municipalities or other political subdivisions as prescribed by the approved plan in keeping with Federal requirements shall be paid from the respective sources of funds from which covered employees receive their compensation. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

Assessment and collection of contributions

Sec. 9. When the governing body of a county, municipality or other political subdivision elects to enter into an agreement with the State Agency, it shall become the duty of the County Treasurer in the respective counties and of the person or persons who hold comparable positions in the municipalities or other political subdivisions to assess and collect the required contributions of the various employees in the respective counties, municipalities or other political subdivisions and transmit the same to the State Agency. Each plan approved by the State Agency will specify the responsible personnel of the undertaking county, municipality or other political subdivision who will be charged with the duty to make assessments, collections, and reports. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

Administrative expenses

Sec. 10. The respective governing bodies of the various counties, municipalities or other political subdivisions of this State which enter into agreements under this program are hereby authorized to pay to the State Agency, out of any available funds not otherwise dedicated, such amounts, separate and apart from employees' contributions and matching contributions, as may be agreed between the respective governing body and the State Agency to be necessary to finance the county's, municipality's or other political subdivision's proportionate share in the administrative cost of this program at the State level. The State Agency shall require specific undertakings to defray a proportionate share of the administrative expenses at the State level in agreements negotiated with counties, municipalities or other political subdivisions on any basis mutually agreeable between the State Agency and the participating county, municipality or other political subdivision, whether as an annual fee for each participating county, municipality or other political subdivision, an annual fee per employee covered, a percentage based upon the contributions to the Federal authorities, or any other equitable measure. Annually at the close of each fiscal year, the State Agency shall pay from the Social Security Administration Fund to the State Treasurer for deposit to the General Revenue Fund of the State of Texas an amount not less than ten (10%) per cent of these contributions during the preceding year to defray administrative expenses until such time as the amount appropriated to the State Agency from funds of the State for administrative purposes has been reimbursed in full, at which time such payments shall cease. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

Delinquent payments

Sec. 11. The State Agency may require in agreements with counties, municipalities and other political subdivisions an undertaking to pay legal interest on delinquent payments. The State Agency is empowered to sue to collect any delinquencies and interest thereon in courts of

competent jurisdiction. The State Agency may direct the deduction of any delinquent payments with interest from any moneys payable to the delinquent county, municipality or other political subdivision by the State or any department or agency of the State; provided, however, that deductions shall be made only from such prior appropriations as were expressly made subject to such deductions. The Comptroller and the State Treasurer are empowered and directed to comply with the State Agency's deduction directives and to remit the deducted amounts to the State Agency in trust for the contributions of the delinquent county, municipality or other political subdivision. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

Social Security Fund; Social Security Administration Fund

Sec. 12. There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, to be known as the Social Security Fund, which shall be administered as directed by the State Agency exclusively for the purposes of this Act. The State Treasurer shall be treasurer and custodian of the fund. He shall administer such fund in accordance with the directions of the State Agency, and the Comptroller shall issue warrants upon it in accordance with such regulations as the State Agency shall prescribe. The State Agency shall deposit all moneys collected under the provisions of this Act, except moneys to defray administrative expenses at the State level, in the Social Security Fund. All moneys so deposited with the State Treasurer in the Social Security Fund shall be held in trust, separate and apart from all public moneys or funds of this State. The State Agency is vested with full power, authority, and jurisdiction over the fund and may perform any and all acts necessary to the administration thereof and to pay the amounts required to be paid to the appropriate Federal authorities and any refunds or adjustments necessary under this Act.

The State Agency shall deposit all moneys collected under the provisions of this Act from participating counties, municipalities or other political subdivisions to defray the cost of administering this program at the State level in a special fund to be known as the Social Security Administration Fund. The State Treasurer shall be treasurer and custodian of the fund, which shall be held separate and apart from all public moneys or funds of this State. The State Treasurer shall administer this fund in accordance with the directions of the State Agency. Moneys deposited in either of these special funds shall be disbursed upon warrants issued by the Comptroller of Public Accounts pursuant to sworn vouchers executed by the State Agency acting through the executive director of personnel of the agency to whom he expressly delegates this function. These funds will not be State funds and will not be subject to legislative appropriation. As amended Acts 1953, 53rd Leg., p. 544, ch. 197, § 1.

Application of law to employees of political subdivisions not otherwise provided for

Sec. 13a. All of the provisions of House Bill No. 603, Chapter 500, Acts 52nd Legislature, Regular Session, 1951, as amended by Senate Bill No. 124, Acts 53rd Legislature, Regular Session, 1953, shall be applicable to all such employees of political subdivisions of this State as are not otherwise provided for in said Act if and when a Constitutional Amendment providing for coverage of such employees, as embodied in House Joint Resolution No. 37, is adopted by vote of the people of this State. Added Acts 1953, 53rd Leg., p. 544, ch. 197, § 2.

Emergency. Effective May 22, 1953.

TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.

CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS

Art. 702. Question submitted

"In all cases when the governing body of a county, city or town shall order an election for the issuance of the bonds of the county, city or town or of any political subdivision or defined district of a county, city or town, such body shall at the same time submit the question of whether or not a tax shall be levied upon the property of such county, city or town, political subdivision or defined district for the purpose of paying the interest on the bonds and to create a sinking fund for the redemption of the bonds. Bonds issued by the governing body of any such county, city or town, political subdivision or defined district whether required by law to be submitted to the Attorney General for approval or not, may be submitted by such governing body to the Attorney General for his approval in the manner provided for the approval of bonds issued by counties, cities, towns, and in case such bonds are so submitted to the Attorney General they shall be examined by him and approved or disapproved in accordance with laws governing bonds issued by counties, cities or towns, and if approved, such bonds shall be registered by the Comptroller as is provided in such laws. As amended Acts 1953, 53rd Leg., p. 369, ch. 95, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the amendatory Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict. Section 3 provided partial unconstitutionality of the Act should not affect the remainder of the Act.

Art. 709a. Approval of bonds of improvement districts of home rule cities

Bonds issued by the governing body of any home rule city for and on behalf of an improvement district created within said city under the provisions of the home rule charter may be submitted to the Attorney General for his approval in the manner provided for the approval of bonds issued by cities and towns, and when so submitted such bonds shall be examined by the Attorney General and approved or disapproved in accordance with the laws governing bonds issued by cities and towns, and if approved, such bonds shall be registered by the Comptroller as in the case of bonds issued by cities and towns. Acts 1953, 53rd Leg., p. 753, ch. 301, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict. Section 3 provided that partial unconstitutionality of the Act should not invalidate the remainder.

Title of Act:

An Act providing that bonds issued by the governing bodies of certain cities on behalf of city improvement districts may be submitted to the Attorney General for approval; providing for the registering thereof by the State Comptroller; repealing all laws in conflict; providing a saving clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 753, ch. 301.

Art. 717i. Validation of county bond elections for flood control, drainage or irrigation; issuance of bonds under election previously ordered

Section 1. All county-wide election proceedings heretofore had for the issuance of bonds by the county for the purposes of improving rivers, creeks and streams for the prevention of overflows, for necessary drainage purposes in connection therewith, for constructing and maintaining lakes, pools, reservoirs, dams, canals and waterways for purposes of irrigation, or in aid thereof, or purchasing improvements already existing and adding thereto, and incidental expenses in connection therewith, including the acquisition of right of way for flood control and the site or sites for dams or other structures to prevent overflows and to provide necessary drainage, constructing flood control systems or aiding therein, and constructing canal systems or aiding therein, are hereby in all things validated. Without in any way limiting the generalization of the foregoing, petitions heretofore presented to the Commissioners Court praying for an election for the issuance of bonds for any or all of said purposes, orders or resolutions of the Commissioners Court heretofore passed or adopted ordering an election or elections to authorize the issuance of bonds for said purposes, election notices heretofore given, and the like, are hereby in all things validated, provided, that this validating section shall not be effective as to litigation pending at the time this Act becomes effective.

Sec. 2. All county-wide bond elections heretofore called and held for the issuance of county bonds for any or all of said purposes at which elections not less than two-thirds (⅔) of the resident qualified property taxpaying voters whose property had been duly rendered for taxation, voting at said election, voted in favor of said bonds are hereby in all things validated.

Sec. 3. All bonds for said purposes, the election for the authorization of which has heretofore been ordered by the Commissioners Court, but which election has not been held by the time that this Act becomes effective, may be issued if at the election not less than two-thirds (⅔) of the resident qualified property taxpaying voters whose property has been duly rendered for taxation, voting at said election, shall vote in favor of the issuance thereof, and said bonds, and bonds which have heretofore been authorized at an election as provided in Section 2 of this Act but which bonds have not yet been issued, shall be issued in accordance with the applicable general laws governing the issuance of county bonds, being Chapter 1 of Title 22, Revised Civil Statutes, 1925, as amended. Such bonds shall be submitted to the Attorney General for approval, and if he approves the same, they shall be registered by the Comptroller of Public Accounts, as provided by general law. After said bonds are approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers thereof for not less than their par value and accrued interest, they shall thereafter be incontestable. Any bonds issued under the provisions of this Act may be refunded either through option provisions contained in such bonds or with the consent of the holder or holders thereof, at the same or lower rate of interest, said refunding bonds to mature serially in not to exceed forty (40) years, and said refunding bonds to be issued in the same manner as provided for and with the same effect as the original bonds, provided, however, that no election shall be necessary to authorize the issuance of said refunding bonds.

Sec. 4. Bonds issued under this Act are hereby declared to be bonds issued by counties under the authority of Section 52, Article III, Constitution of Texas, or by counties as conservation and reclamation districts under the authority of Section 59, Article XVI, Constitution of Texas, and the petition praying for the election to authorize the issuance of said bonds shall determine under which of said Constitutional provisions said bonds are issued or to be issued. Acts 1953, 53rd Leg., p. 962, ch. 406.

Emergency. Effective June 8, 1953.

Section 5 of the Act of 1953 repealed article 822 and all other conflicting or inconsistent laws, general or special. Section 6 provided that partial invalidity should not affect other parts of the Act.

CHAPTER SIX—RECLAMATION AND IRRIGATION BONDS

Art. 822. Repealed. Acts 1953, 53rd Leg., p. 962, ch. 406, § 5. Eff. June 8, 1953

CHAPTER SEVEN—MUNICIPAL BONDS

Art.
835m. Municipal libraries; fire stations; validation of bonds [New].

Art. 835m. Municipal libraries; fire stations; validation of bonds

Section 1. All bonds heretofore voted by any incorporated city or town, including home rule cities, for the purpose of enlarging and improving a municipally owned and operated library building or constructing a new municipal library building, either or both, and all proceedings relating thereto, are hereby in all things validated, ratified, approved, and confirmed, notwithstanding the fact that the election may not in all respects have been ordered and held in accordance with mandatory statutory provisions. All bonds heretofore voted by any incorporated city or town, including home rule cities, for the purpose of constructing a fire station or a fire station and dormitory, either or both, and all proceedings relating thereto, are hereby in all things validated, ratified, approved, and confirmed, notwithstanding the fact that the election may not in all respects have been ordered and held in accordance with mandatory statutory provisions. Such bonds, when approved by the Attorney-General of Texas and registered by the Comptroller of Public Accounts of Texas, and sold and delivered for not less than their par value plus accrued interest, shall be binding, legal, valid, and enforceable obligations of such city or town and shall be incontestable. 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 voted in favor of the issuance thereof.

Sec. 2. This Act shall not be construed as validating any such bonds or proceedings, the validity of which has been contested or attacked in any suit or litigation pending at the time this Act becomes effective. Acts 1953, 53rd Leg., p. 2, ch. 2.

Emergency. Effective Jan. 29, 1953.

Title of Act:

An Act validating, ratifying, approving, and confirming certain proceedings and bonds heretofore voted by incorporated cities or towns; providing that such bonds, when approved by the Attorney-General, registered by the Comptroller, and sold and delivered, shall be binding, legal, valid, and enforceable obligations; providing that this Act shall not validate any proceedings or bonds the validity of which has been contested or attacked in any pending suit or litigation; and declaring an emergency. Acts 1953, 53rd Leg., p. 2, ch. 2.

TITLE 24—BUILDING AND LOAN ASSOCIATIONS

Art. 881a—23. Joint shares

Shares or share accounts issued by any building and loan association organized under the laws of this State, or by any Federal savings and loan association domiciled in this State, in the name of two (2) or more persons, or to two (2) or more persons or the survivor of either, may be withdrawn on the signature of either party to whom such shares or share accounts were issued, and no recovery shall be had against such association for amounts so paid. When shares or share accounts are issued in the name of two (2) or more persons or in the name of their survivor, the survivor or either party shall have power to act in all matters relating to such shares or share accounts, whether the other person or persons named in such shares or share accounts be living or dead. Such a joint account shall create a single membership in such association, and the repurchase or withdrawal value of shares or share accounts issued in joint names and dividends thereon, or other rights relating thereto, may be paid or delivered in whole or in part, to any of such persons who shall make requests therefor, whether the other person or persons be living or dead. The payment or delivery to any such person, on a receipt or acquittance signed by any such person, to whom any such payment or any such delivery of rights is made, shall be a valid and sufficient release and discharge of any such association for the payment or delivery so made. A married woman or a minor is authorized to enter into, fulfill, and receive the benefits of contracts for such joint accounts, as if such married woman was a feme sole, or as if such minor was of legal age, provided, however, that where share or share accounts are issued in the name of two (2) or more persons or the survivors of either, and the survivor is a minor, the proceeds of the joint account shall be paid to his legally appointed and qualified guardian. As amended Acts 1953, 53rd Leg., p. 1028, ch. 425, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

TITLE 28—CITIES, TOWNS AND VILLAGES

CHAPTER ONE—CITIES AND TOWNS

Art. 966c. Validation of incorporation, proceedings and acts; cities and towns of 5,000 or less; limits of territory

Section 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of

government, and which are now functioning or attempting to function as incorporated cities and towns, 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, or by reason of a failure to properly define the limits of said city or town, or because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes.

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, prior to the effective date of this Act, are hereby in all things validated.

Sec. 3. All governmental proceedings and acts 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 and acts.

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 if such litigation is ultimately determined against the legality thereof.

Sec. 5. If any word, phrase, clause, sentence, paragraph or provision of this Act is declared unconstitutional, it is the intention of the Legislature that the remaining provisions thereof shall be effective, and that such remaining portions shall remain in full force and effect. Acts 1953, 53rd Leg., p. 492, ch. 177.

Emergency. Effective May 19, 1953.

Title of Act:

An Act validating the incorporation of all cities and towns of five thousand (5,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under the General Laws of this State; validating the boundary lines thereof; validating governmental proceedings and acts; providing that this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation if such litigation is ultimately determined against the legality thereof; providing a severability clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 492, ch. 177.

Art. 969a—1. Lease, sale, option or conveyance of islands, flats or other submerged lands

Section 1. Any city to which the State of Texas or the Republic of Texas has heretofore relinquished its right, title and interest in or to any island, flats or other submerged lands be, and is hereby granted power and authority to lease, sell, option and convey all or any portion of such island, flats or other submerged lands, and to enter upon development plans and contracts for any or all of these purposes with any person, firm or corporation, public or private. The foregoing powers may be exercised at such time and upon such considerations and terms and for such periods of years as the governing body of such city shall determine to be proper and in the public interest. In any city which has by charter provision for a referendum, a contract for the development of such island, flats and other submerged land and for the lease, sale or option of all or any part thereof, as authorized in this Act, may be entered upon by the governing board of the city without advertisement or receiving bids thereon, but shall be subject to the provisions for referendum, and such contract shall not become finally effective until the period within which the petition for referendum must be presented has expired

or, if a proper petition for referendum is presented, until the contract has been approved at an election ordered for that purpose.

Sec. 2. All laws or parts of laws and provisions of the charter of any city which may be in conflict with the provisions of this Act are hereby amended or repealed to the extent of such conflict. As to the content of all other laws or parts of laws this Act shall be cumulative.

Sec. 3. This Act shall not be construed to grant or convey to any city the title to any oil, gas or other minerals which was not already owned by such city at the enactment hereof.

Sec. 4. If any section, paragraph, sentence, clause, phrase or word contained in this Act shall be held unconstitutional by any court of this State, the invalidity of such portion of the Act shall not be construed to affect any other part of this Act. Acts 1953, 53rd Leg., p. 126, ch. 80.

Emergency. Effective April 23, 1953.

Title of Act:

An Act granting to cities the power and authority to lease, sell, option and convey all or any portion of any island, flats or other submerged lands heretofore relinquished to such cities by the State of Texas or the Republic of Texas, and to enter upon development plans and contracts for any or all of these purposes; providing that this Act shall not be construed to grant or convey to any city the title to any oil, gas or other minerals which was not already owned by such city; providing for conflict or unconstitutionality in said Act; and declaring an emergency. Acts 1953, 53rd Leg., p. 126, ch. 80.

Art. 969d. Cities with less than 10,000 population; purchase of real estate from United States Government

Section 1. The governing bodies of cities, towns and villages, including Home Rule Cities, with a population of less than ten thousand (10,000), are hereby authorized to purchase real property and improvements thereon for municipal purposes from the Federal Government when offered for sale to such cities, towns and villages.

Sec. 2. All actions and negotiations of governing bodies of cities, towns and villages prior to the effective date of this Act relating to the purchase or acquisition of real property for municipal purposes from the Federal Government are hereby in all things validated.

Sec. 3. Governing bodies of cities, towns and villages are hereby authorized to sell and convey any such property so acquired for the highest price obtainable when the same is no longer needed for the purpose or purposes for which acquired or when the purpose or purposes for which acquired no longer exist.

Sec. 4. If any portion of this Act is held unconstitutional by a court of competent jurisdiction the remaining portions shall nevertheless be valid the same as if the invalid portion had not been a part hereof. Acts 1953, 53rd Leg., p. 755, ch. 303.

Emergency. Effective June 5, 1953.

Section 5 of the Act of 1953 repealed conflicting laws and parts of laws to the extent of the conflict.

Title of Act:

An Act authorizing governing bodies of cities, towns and villages including Home Rule Cities, with population of less than ten thousand (10,000) inhabitants, to purchase real property and improvements thereon for municipal purposes from the Federal Government when offered for sale; validating all actions and negotiations of governing bodies of such cities, towns and villages prior to the effective date of this Act relating to the purchase of real property from the Federal Government; authorizing said governing bodies to sell and convey property so acquired when no longer needed for the purposes for which acquired or when such purpose or purposes no longer exist; providing a saving clause; repealing all laws or parts of laws in conflict with the provisions of this Act; and declaring an emergency. Acts 1953, 53rd Leg., p. 754, ch. 302.

Art. 973. [780] Discontinuing territory

Whenever there exists within the corporate limits of any city or town organized under the general laws within this State territory to the extent of at least ten (10) acres, contiguous and adjoining the lines of any such city or town, which is uninhabited or on which there are fewer than one (1) occupied residence or business structure for every two (2) acres of such territory and fewer than three (3) occupied residences or business structures on any one (1) acre of such territory, the mayor and city or town council may by ordinance duly passed discontinue said territory as a part of said city or town; and when said ordinance has been duly passed, the mayor shall enter an order to that effect on the minutes or records of the city or town council; and from and after the entry of such order said territory shall cease to be a part of said city or town. As amended Acts 1953, 53rd Leg., p. 887, ch. 366, § 1.

Emergency. Effective June 8, 1953.

Section 2 of the Act of 1953 repealed conflicting laws and parts to the extent of the conflict.

Art. 974d—3. Validation of incorporation; counties of 600,000 population

Section 1. All towns and villages in Texas located in counties of over six hundred thousand (600,000) population according to the last preceding Federal Census, heretofore incorporated or attempted to be incorporated under the general laws of Texas, Chapter 11, Title 28, Revised Civil Statutes of Texas, 1925, are hereby in all respects validated as of the date of such incorporation or attempted incorporation.

Sec. 2. The provisions of this Act shall affect no town or village now or heretofore in litigation. Acts 1953, 53rd Leg., p. 938, ch. 395.

Emergency. Effective June 8, 1953.

Title of Act:

An Act validating the incorporation of towns or villages heretofore incorporated or attempted to be incorporated under Chapter 11 of Title 28 of the Revised Civil Statutes of Texas, 1925; providing that the provisions hereof shall affect no town or village now in litigation; and declaring an emergency. Acts 1953, 53rd Leg., p. 938, ch. 395.

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 (½) 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, 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." As amended Acts 1953, 53rd Leg., p. 367, ch. 93, § 1.

Emergency. Effective May 1, 1953.

Section 2 of the amendatory Act of 1953 provided that the provisions of the Act should be cumulative of all other laws on the subject of annexation of land or territory by incorporated cities and towns.

CHAPTER FOUR—THE CITY COUNCIL

Art.
1015i. Lease of city owned hospital; cities of 65,000 or less [New].

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 Commission, 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 before the Zoning Commission on proposed changes in classification shall be sent to owners of real property lying within two hundred (200) feet of the property on which the change in classification is proposed, such notice to be given, not less than ten (10) days before the date set for hearing, to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the city postoffice. Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the city after the final date for making the renditions which are included on the last approved city tax roll, notice to such owners shall be given by publication in the manner provided in Section 4 of this Act.[1] As amended Acts 1953, 53rd Leg., p. 732, ch. 287, § 1.

Emergency. Effective June 5, 1953.

Art. 1015i. Lease of city owned hospital; cities of 65,000 or less

Section 1. The governing body of any incorporated city or town (including home rule cities) having a population of sixty-five thousand (65,000) inhabitants or less, according to the last preceding Federal Census, is hereby authorized to lease any city-owned hospital, or part thereof, to be operated by the lessee as a public hospital under such terms and conditions as may be agreed upon by such governing body and such lessee. Any such lease shall be authorized by ordinance or resolution adopted by such governing body, and the lease agreement shall be executed, on behalf of the city or town, by the mayor and the city secretary or clerk, and the seal of the city shall be impressed thereon. Such lease may cover any period of time not to exceed fifty (50) years. Acts 1953, 53rd Leg., p. 930, ch. 389.

Emergency. Effective June 8, 1953.

Title of Act:

An Act authorizing the governing body of any incorporated city or town (including home rule cities) having a population of sixty-five thousand (65,000) inhabitants or less, according to the last preceding Federal Census, to lease any city-owned

hospital or part thereof to be operated by the lessee as a public hospital under such terms and conditions as may be agreed upon by such governing body and lessee; providing for the authorization and execution of the lease and lease agreement; providing the term to be covered by such lease; and declaring an emergency. Acts 1953, 53rd Leg., p. 930, ch. 389.

CHAPTER TEN—PUBLIC UTILITIES

Art. 1109a. Mortgage of water system; extension or enlargements

Operating expense first lien on income; rates; priorities; agreements as to payment

Sec. 2. Whenever the income of any water system shall be encumbered under this Act, the expense of operating and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to render efficient service, and every proper item of expense shall always be a first lien and charge against such income. The rates charged for services furnished by said system shall be equal and uniform, and no free service shall ever be allowed, except in the discretion of the governing body, for city public schools, or buildings and institutions operated by such city, and there shall be charged and collected for such services a sufficient rate to pay for all operating, maintenance, depreciation, replacement, betterment and interest charges, and for an interest and sinking fund sufficient to pay any bonds or notes issued to purchase, construct or improve such system or any outstanding indebtedness against same.

Where bonds, notes or obligations are issued hereunder, and at the time of the authorization of such bonds or notes in the manner hereinafter prescribed, there are then outstanding other bonds, notes or obligations payable from the revenues of the water system, the additional bonds or notes may nevertheless be issued, but shall be issued in such manner that they are in all respects subordinate to each issue of bonds, notes or obligations then outstanding. Each series of bonds or notes issued hereunder shall, as to lien on the revenues and physical properties of the water system, be subordinate to each series of bonds, notes or obligations theretofore issued and remaining outstanding. Provided, however, in those instances where in the ordinance or Deed of Trust or indenture of trust provision has been or shall be 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 of the water system and secured by pledges and liens on a parity with and of equal dignity with the pledges and liens securing the bonds previously issued; and such additional bonds, notes or obligations when issued shall in all respects be on a parity with and of equal dignity with said previously issued bonds which are then outstanding, provided in the ordinance or Deed of Trust or indenture of trust authorizing or securing such additional bonds they are declared to be on a parity and of equal dignity with said previously issued bonds, but subject in all respects to the conditions imposed upon the issuance of additional bonds by the ordinance, Deed of Trust or indenture of trust issuing or securing the bonds which are outstanding. In the issuance of revenue bonds in the future for any 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.

Subject to the terms and provisions hereof, the governing body of the city, in authorizing the issuance of bonds, notes or obligations hereunder, may enter into such agreements and covenants with respect to the manner of payment of such bonds, notes or obligations, and the application of the revenues of the water system as it may deem fit, provided, however, that no such bond, warrant or note shall ever be a general obligation of such city, and it shall be proper for the governing body to apply surplus revenues of the system not needed for the payment of principal of and interest on such bonds, notes or obligations, and not needed for the payment of operating and maintenance expenses, to the payment of any notes, warrants or other obligations the proceeds of which were used for the purpose of improving, repairing, adding to or extending the waterworks system. As amended Acts 1953, 53rd Leg., p. 419, ch. 121, § 1.

Property included in incumbrance; Attorney General to approve bonds; submission to voters

Sec. 6. In the encumbrance of any properties under this Act such city may encumber any such water systems, or any extensions, additions or enlargements thereof, singly or together, and may or may not include in such encumbrance the franchise provided for, and may omit or include in said encumbrances the whole or any part of the properties mentioned in Section 1 of this Act; but no such system shall ever be sold until such sale is authorized by a majority vote of the qualified property taxpayers of such city, or under the terms of any such mortgage or encumbrance, such vote where necessary to be ascertained at an election, of which notice shall have been given in like manner as in cases of the issuance of municipal bonds by such cities.

All bonds and notes issued hereunder shall be submitted to the Attorney General for examination, and upon his approval thereof, shall be registered by the State Comptroller in a book kept for that purpose, and the Comptroller shall endorse his certificate of registration on each such bond or note. Any bonds or notes so approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers for not less than their par value plus accrued interest shall thereafter be incontestable.

Bonds or notes may be issued under the provisions hereof and the revenues or physical properties of the water system encumbered as security for the payment of such bonds and notes; such bonds or notes shall not be issued, however, until such issuance has been authorized by a majority vote of the qualified electors who own taxable property in the city where said election is being held, and who have duly rendered their property for taxation, such electors voting only in the precinct of their residence, and voting on such proposition under the Constitution and laws of Texas. Such election shall be called and held in the manner provided for the calling and holding of other bond elections in such city. No other notices need be published or opportunities for the filing of petitions granted despite the provisions of any other statute or of the charter of any such city. As amended Acts 1953, 53rd Leg., p. 419, ch. 121, § 1.

Prior proceedings validated; proviso as to cities of 290,000

Sec. 7. All proceedings heretofore had by cities having more than one hundred and sixty thousand (160,000) inhabitants, in the acquisition of any water systems, and the encumbrance of same, within the authority given by this Act, be and the same are hereby approved and ratified.

Provided, that in cities having a population of more than two hundred and ninety thousand (290,000) according to the last preceding Federal Census, the governing body thereof shall have the power to borrow money and issue bonds or notes which shall be fully negotiable within the meaning and for all purposes under the negotiable instrument law; said bonds and notes to be payable solely out of the income of such system or any extensions, replacements, betterments, additions or improvements which, in the judgment of the governing body of such city, are necessary to render adequate service and to pledge and use the income of such system for the payment of such bonds or notes and such determination by such governing body shall be conclusive and any ordinance pledging or encumbering such rents, income or revenues shall be deemed a part of the contract of said city with the holders of such bonds or notes, and

Provided, further, that the election called for in Section 6 hereof shall not be necessary in said cities having a population of more than two hundred and ninety thousand (290,000) inhabitants according to the last preceding Federal Census, to authorize the issuance of bonds or notes payable solely out of the income of said system, and

Provided, further, that all bonds or notes of said last mentioned cities authorized under Section 1 of this Act shall be submitted to the Attorney General of Texas for his examination and when such bonds or notes have been examined and certified as legal obligations of such cities by said Attorney General they shall be registered by the Comptroller of Texas in a book kept for such purposes, and the Comptroller shall endorse his certificate of registration upon each of such bonds or notes; and any bonds or notes so approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers for not less than their par value plus accrued interest shall thereafter be incontestable.

Provided, further, that nothing in this Act, however, shall repeal or affect any other legislation pertaining to the same or similar subjects but shall be cumulative of all Acts granting the power to all such cities and towns, including home rule cities, operating under Title 28 of the Revised Civil Statutes of 1925, and it is not intended to limit or impair any power given by any other of such Acts, nor shall any other Act be deemed to limit or impair the power of any city under this Act. As amended Acts 1953, 53rd Leg., p. 419, ch. 121, § 1.

Emergency. Effective May 12, 1953.

Sections 2 and 3 of the amendatory Act of 1953 read as follows:

"Sec. 2. All waterworks revenue bonds which have heretofore been issued by cities of more than one hundred and sixty thousand (160,000) inhabitants, which bonds were authorized by a majority vote of the qualified property taxpaying voters of the city whose property had been duly rendered for taxation voting at an election held for that purpose, and which bonds were approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers for not less than their par value plus accrued interest, are hereby in all things validated; provided, however, that this section shall not be construed to validate any bonds the validity of which is involved in litigation on the date that this Act becomes effective.

"Sec. 3. If any word, phrase, clause, sentence, paragraph, section, or part of this Act shall ever be held by any court of competent jurisdiction to be invalid, or unconstitutional, it shall not affect any other word, phrase, clause, sentence, paragraph, section, or part of this Act."

Art. 1112. Vote, etc.

No such light, water, sewer or natural gas systems, parks and/or swimming pools, shall ever be sold until such sale is authorized by a majority vote of the qualified voters of such city or town; nor shall same be encumbered for more than Ten Thousand Dollars ($10,000), except for purchase money, or for extensions to such systems, or to refund any existing indebtedness lawfully created, until authorized in like manner. Such vote in either case shall be ascertained at an election, which election shall be held and notice thereof given as is provided in the case of the issuance of municipal bonds by such cities and towns. As amended Acts 1953, 53rd Leg., p. 776, ch. 307, § 1.

Emergency. Effective June 5, 1953.

Art. 1113a. Transfer of revenues to city's general fund

Incorporated cities and towns having a population of ten thousand (10,000) or more, according to the then last preceding Federal Census, and their officials and utility trustees, are hereby authorized to transfer to the general fund of the city or town and use for general or special purposes revenues (now on hand or hereafter received) of any municipally-owned utility system in the amount and to the extent as may be 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 Civil Statutes of Texas of 1925, as amended, or other similar laws, notwithstanding any prohibition contained in Article 1113, Revised Civil Statutes of Texas of 1925, as amended, or other similar laws. As amended Acts 1953, 53rd Leg., p. 422, ch. 122, § 1.

Emergency. Effective May 12, 1953.

Art. 1118t. Additional revenue bonds; issuance without election

Section 1. Any incorporated city or town, including any home rule city, which now has or shall hereafter have outstanding revenue bonds issued under Articles 1111 to 1118, inclusive, Revised Civil Statutes of Texas, 1925, as amended, or other similar statutes, for the purpose of acquiring its electric and gas systems or to refund bonds issued for such purpose, shall have the power to issue additional revenue bonds for the sole purpose of extending and improving said systems and payable from the net revenues of said systems on a parity with said outstanding bonds, in the manner and to the extent authorized by law and by the ordinances or trust indentures authorizing such outstanding acquisition bonds or refunding bonds, without holding any election on the issuance thereof, regardless of other statutory or charter provisions to the contrary; provided thirty (30) days notice of intention to issue such bonds shall be given. Said notice shall be given as provided in the "Bond and Warrant Law of 1931," as amended,[1] except that the first publication shall be at least thirty (30) days prior to the date set for authorizing the bonds and that said notice shall contain a description by name and amount outstanding of any bonds or other indebtedness payable from the net revenues of such systems. Unless said notice is given as prescribed by the terms of this Section 1, said notice will be null and void and of no effect, and another notice as provided herein shall be given prior to the authorization of bonds covered by this Act.

1 Article 2368a.

Sec. 2. If a petition is filed in accordance with the provisions of said law, the election shall be ordered and held (on the issuance of said bonds)

in accordance with said law; provided, however, that the question whether said bonds shall be issued may be submitted in a single proposition and without the necessity of designating the amount of bond proceeds to be expended on each system.

Sec. 3. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid, it shall not affect any other word, phrase, clause, sentence, or part of this Act. Acts 1953, 53rd Leg., p. 43, ch. 35.

Emergency. Effective March 17, 1953.

Title of Act:

An Act authorizing any incorporated city or town which now has or shall hereafter have outstanding revenue bonds issued for the purpose of acquiring its electric and gas systems, or to refund bonds issued for such purpose, and payable from the net revenues of such systems, to issue additional revenue bonds for the purpose of extending and improving said systems and payable from the net revenues of such systems on a parity with said outstanding bonds, in the manner and to the extent authorized by law and by the ordinances or trust indentures authorizing such acquisition bonds or refunding bonds without holding an election on the issuance thereof; providing for notice of intention to issue such bonds, for an election to be held on their issuance if a petition for election is filed as set forth in this Act; and providing conditions relative to any such election; providing a savings clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 43, ch. 35.

Art. 1118u. Additional revenue bonds; waterworks, sewers and swimming pool

Section 1. This Act shall be applicable to any city which has heretofore issued bonds payable from and secured by a pledge of revenues of its waterworks system, sewer system and swimming pool, retaining therein the right to issue additional parity bonds to be payable from and secured by such revenues, and which has held an election resulting favorably to the issuance of additional bonds to be payable from and secured by a pledge of waterworks system, sewer system and swimming pool revenues.

Sec. 2. Any city to which this Act is applicable is authorized to proceed with the issuance, sale and delivery of the bonds authorized by such election and to secure them with a pledge of the net revenues of the waterworks and sewer systems, and, in the discretion of the governing body of the city, the bonds may be additionally secured by a pledge of the net revenues of the swimming pool. Such bonds, when approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, shall constitute valid and binding obligations of such city. Acts 1953, 53rd Leg., p. 98, ch. 64.

Emergency. Effective April 21, 1953.

Title of Act:

An Act applicable to any city which has issued waterworks and sewer system and swimming pool revenue bonds reserving the right to issue additional bonds secured by and payable from revenues of the systems and swimming pool and which has voted additional revenue bonds to be so payable and secured; authorizing the issuance, sale and delivery of such additional bonds payable from and secured by revenues of the waterworks and sewer systems or revenues of the waterworks and sewer systems and the swimming pool; providing that when such additional bonds are approved by the Attorney General and registered by the Comptroller of Public Accounts they shall constitute valid and binding obligations of such city; enacting other provisions relating to the subject; and declaring an emergency. Acts 1953, 53rd Leg., p. 98, ch. 64.

CHAPTER TWELVE—COMMISSION FORM OF GOVERNMENT

Art. 1161. [1074] Officers appointed

Said "Board of Commissioners" shall appoint a competent person to be Clerk, who shall also be Assessor and Collector of Taxes of such city or town, or town or village. He shall before entering upon the duties of

his office, enter into a good and sufficient bond, to be executed by a surety company authorized to do business in the State of Texas, in an amount sufficient to adequately protect the funds of such city or town, but in no event less than twice the largest amount collected at any one time in the preceding fiscal or calendar year, to be determined by the Board of Commissioners, and said bond to be approved by the Board and filed and recorded in the minutes thereof. Said Clerk shall be invested and charged with and shall exercise all the power, rights and duties conferred upon and imposed by the General Laws, upon the Clerk, Treasurer, Assessor and Collector of Taxes, of cities and towns, or towns and villages, as the case may be. The Board shall also have the authority to appoint a City Attorney and such police force and such other officers as they may deem necessary, and fix the salary or other compensation to be received by such Clerk, and by such officers, and define their duties, and at any time may abolish any office which it creates, and may discharge any officer, clerk or employee which it appoints. As amended Acts 1953, 53rd Leg., p. 565, ch. 210, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER THIRTEEN—HOME RULE

Art.
1174a—2. Validation of adoption of charter; elections and assumption of office; acts of officers [New].

Art. 1174a—2. Validation of adoption of charter; elections and assumption of office; acts of officers

Section 1. In each instance where an election has heretofore been held in an incorporated city for the purpose of voting upon the adoption of a home rule charter for such city, where copies of the proposed charter with the date of the election shown thereon were mailed to all voters within said city as shown by the tax rolls thereof, and a news item showing the date and purpose of said election was published in a newspaper published within such city at least thirty (30) days prior to the date of such election, and a majority of the qualified voters of said city voting at said election voted in favor of the adoption of such charter, all such proceedings relating to the adoption of said charter are hereby in all things validated, ratified, and confirmed, and said charter shall constitute the home rule charter of said city under the constitution and laws of this State. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city are hereby in all things validated.

Sec. 2. This Act shall not be construed as validating the adoption of any charter or the charter so adopted if the validity of the charter adoption proceedings or of the charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of this State and such litigation is ultimately determined against the validity thereof.

Sec. 3. If any word, phrase, clause, sentence or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitu-

tional, it shall not affect any other phrase, word, clause, sentence, or part of this Act. Acts 1953, 53rd Leg., p. 362, ch. 88.

Emergency. Effective May 1, 1953.

Title of Act:

An Act validating under certain conditions proceedings relating to the adoption of home rule charters, validating the charters so adopted, and providing that such charter so adopted shall constitute the home rule charter of the city; validating elections held for the election of members of the governing body of the city and their assumption of office; validating acts of city officers and officials; providing that this Act shall not be construed as validating the adoption of any charter or the charter if the validity of the charter adoption proceedings or of the charter are involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof; providing a savings clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 362, ch. 88.

Art. 1182c—1. Cities which have annexed territory within water control and improvement or supply districts

Dissolution of water control and improvement districts within city

Sec. 2a. All water control and improvement districts which have heretofore been created out of territory which, at the time of such creation, was situated wholly within the corporate limits of any incorporated city may be abolished in the manner herein provided. The governing body of such city shall be authorized, by majority vote, to adopt an ordinance abolishing such water control and improvement district if such governing body finds (a) that such water control and improvement district is no longer needed or (b) that the services furnished and funtions performed by such district can be served and performed by the city and (c) that it would be to the best interests of the citizens and property within said district and the citizens and property within such city that such district be abolished, and (d) that the Board of Directors of such water control and improvement district shall have adopted a resolution evidencing the consent of such Board of Directors to abolition of such water control and improvement district.

If prior to the date when an ordinance adopted pursuant to this Section shall take effect, or within thirty (30) days after the same takes effect, or the publication of same, a petition signed and verified by the qualified voters of the city equal in number to ten per cent (10%) of the total vote cast at the city election next preceding the filing of said petition shall be filed with the city secretary protesting against the enactment or enforcement of such ordinance, it shall be suspended from taking effect and no action theretofore taken under such ordinance shall be legal or valid. Immediately upon the filing of such petition the secretary shall present it to the governing body of the city. Thereupon the governing body shall immediately reconsider such ordinance and if it does not entirely repeal the same shall submit it to popular vote at the next municipal election, or the governing body may, in its discretion, call a special election for that purpose, and such ordinance shall not take effect unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof.

Upon the adoption of an ordinance as hereinabove provided, such water control and improvement district shall be abolished and dissolved and all properties and assets of such district shall thereupon vest immediately in such city and such city shall thereby assume and become liable for all bonds and other obligations for which such district is liable. Such city shall thereafter perform all services and functions theretofore performed or rendered by said district. When any district bonds, warrants or other obligations payable in whole or in part from ad valorem taxes have been assumed by such city, the governing body of such city

shall thereafter levy and cause to be collected upon all taxable property within such city, taxes sufficient to pay principal of, and interest on, such bonds, warrants or obligations as they respectively become due and payable. Such city shall be authorized to issue refunding bonds in its own name to refund any bonds, warrants or other obligations, including unpaid earned interest thereon, so assumed by it. Such refunding bonds shall be issued in the manner provided in the Bond and Warrant Law of 1931, as heretofore or hereafter amended, provided that it shall not be necessary to give any notice of intention to issue such refunding bonds and no right of referendum thereon shall be available. Added Acts 1953, 53rd Leg., p. 588, ch. 230, § 1.

Emergency. Effective May 27, 1953.

Section 2 of the Act of 1953 provided that partial unconstitutionality should not affect the remaining portion of the act.

CHAPTER SIXTEEN—CORPORATION COURT

Art. 1197a. Recorder of Corporation Court

The governing body of any city, town or village not incorporated under special charter nor incorporated under 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," may by ordinance provide for the appointment and qualifications of the recorder of the Corporation Court in any such city, town or village.

In any such city, town or village so providing by ordinance for the appointment of the recorder of such Corporation Court and which has not theretofore provided for the election of such recorder in the manner authorized by Article 1197, Revised Civil Statutes of Texas, 1925, the mayor of such city, town or village shall cease to be the ex-officio recorder of such Court upon the enactment of such ordinance and the recorder first appointed shall hold his term of office corresponding to the unexpired term of said mayor, and every two (2) years thereafter a recorder shall be appointed for a term of two (2) years.

In any such city, town or village so providing for the appointment of the recorder of such Corporation Court and which has theretofore provided for the election of such recorder, the recorder first appointed shall be appointed at the expiration of the term of office of the then recorder so elected and shall hold his term of office for two (2) years, and every two (2) years thereafter a recorder shall be appointed for a term of two (2) years.

All recorders of such Corporation Courts in such cities, towns and villages shall hold their terms of office for the term appointed and until their successors have been appointed and qualified. Added Acts 1953, 53rd Leg., p. 39, ch. 31, § 1.

Emergency. Effective March 5, 1953.

TITLE 30—COMMISSION MERCHANTS

Art. 1287a. Live stock auction commission merchants

Conditions, amount and termination of bond; reports

Sec. 3. Said bond shall be conditioned that such livestock commission auction merchant shall faithfully obey and carry out all the terms and provisions of this law, and will faithfully and truly perform all agreements entered into with all the consignors, owners, or those holding valid lien on said livestock with respect to receiving, handling, selling, and making remittances and payments of the net proceeds thereof to said named parties, or to the person, firm, or corporation to whom said consignor, owner, or valid lien holder shall direct such payments to be made; and said bond shall further provide and shall be conditioned that said auction commission merchant shall, within forty-eight (48) hours of a sale of the livestock so consigned, including the day of sale, Sundays, and holidays, remit the net proceeds thereof to the parties rightfully entitled to receive the same, or to such person, firm, or corporation to whom such parties shall direct the payment to be made, or shall, within forty-eight (48) hours of a sale of such livestock for said parties at interest, deposit to the credit of such parties their respective interests in the net proceeds thereof in some State or National Bank in the city, town, or county where such livestock auction commission merchant has his principal office or place of business, if requested by any or all of said parties at interest to do so. The amount of such bond shall be not less than the nearest multiple of One Thousand Dollars ($1,000) above the average amount of sales and/or purchases of livestock by such livestock auction commission merchant, during two (2) business days, based on the total number of the business days, and the total amount of such sales and/or purchases in the preceding twelve (12) months, or in such part thereof in which such livestock auction commission merchant did business, if any. For the purpose of this computation, three hundred and eight (308) shall be deemed the number of business days in a year, and all livestock auction commission merchants may in making this computation use three hundred and eight (308) days as the number of business days in a year, regardless of whether livestock auction sales are actually conducted on all of the three hundred and eight (308) days aforesaid. In any case, however, the amount of bond shall be not less than Two Thousand Dollars ($2,000); and when the sales and/or purchases, calculated as hereinbefore specified, exceed Fifty Thousand Dollars ($50,000) as to any particular livestock auction commission merchant, the amount of the bond need not exceed Fifty Thousand Dollars ($50,000) plus ten per cent (10%) of the excess. Any person, firm or corporation who has not heretofore engaged in the business of a livestock auction commission merchant shall give bond in an amount adequate to cover the probable volume of business to be done by such merchant, the amount of bond to be fixed by the County Judge of the county in which such livestock auction commission merchant has his principal office or place of business. After such livestock auction commission merchant, his successors or assigns, has engaged in such business for a period of twelve (12) months, then, the amount of such bond shall be determined as otherwise provided in this Act. In case two (2) or more livestock auction commission merchants are the employees or agents solely of the same principal, they may be covered by a single bond in an amount based on their combined purchases and/or sales determined in accordance with this Act.

In any other case, two (2) or more livestock auction commission merchants may be covered by a single bond; provided, however, that the amount of such combined bond shall be not less than the aggregate sum of individual bonds, determined in accordance with this Act. Said bond shall further provide that the person, firm, or corporation executing the same shall keep a true and accurate record of the description of all such livestock so sold at auction, which record shall be subject to be inspected by any citizen of Texas, which shall give a description of such livestock by color, probable age, and the marks and brands, if any there be, and the location of said marks and brands. Said livestock auction commission merchant executing such bond shall make quarterly report of such livestock so sold, giving the name of the consignor or person purporting to own the same, together with his address and the name and address of the person or persons purchasing the same. All such surety bonds shall contain a provision requiring that at least ten (10) days prior notice in writing be given to the County Judge of the county in which such commission auction merchant has his principal office or place of business by the party terminating such bond, in order to effect its termination. As amended Acts 1953, 53rd Leg., p. 57, ch. 46, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Exception of commission or company subject to Federal regulation

Sec. 3a. The provision of Section 3 above shall have no application to any Livestock Auction Commission or Company which is subject to and regulated by the United States Department of Agriculture under the Packers and Stock Yards Act.[1] Added Acts 1953, 53rd Leg., p. 708, ch. 271, § 1.

1 7 U.S.C.A. § 181 et seq.

Emergency. Effective June 4, 1953. Different sections numbered 3a were added in 1949 and 1953.

TITLE 32—CORPORATIONS—PRIVATE

CHAPTER ONE—PURPOSES

Art. 1302i. Television and aerial equipment [New].

Art. 1302. 1121, 642, 566 Purposes

38. Private corporations may be created for, or if presently created, may have their charters or permits to do business in Texas so amended as to provide for, the following purposes:

To establish and maintain a drilling business, with authority to own and operate drilling rigs, machinery, tools and apparatus necessary in the boring, or otherwise sinking of wells in the production of oil, gas, or water, or either, and the purchase and sale of such goods, wares, and merchandise used for such business; and, incidental to said primary purpose, to establish and maintain an oil business with authority to contract for the lease and purchase of the right to prospect for, develop and use coal and other minerals, petroleum and gas. As amended Acts 1953, 53rd Leg., p. 125, ch. 79, § 1.

Emergency. Effective April 23, 1953.

95. Corporations may be created for, or after being created, charters may be amended to include the construction, maintenance and op-

eration of radio and television broadcasting equipment and stations. As amended Acts 1953, 53rd Leg., p. 748, ch. 295, § 1.

Emergency. Effective June 5, 1953.

Art. 1302i. Television and aerial equipment

Private corporations may be formed to sell and service television receiving sets and equipment and to engage in the installation and servicing of central aerial equipment. Acts 1953, 53rd Leg., p. 591, ch. 234, § 1.

Emergency. Effective May 27, 1953.

Title of Act:

An Act authorizing private corporations to be formed to sell and service television receiving sets and equipment and to engage in the installation and servicing of central aerial equipment; and declaring an emergency. Acts 1953, 53rd Leg., p. 591, ch. 234.

CHAPTER EIGHTEEN—MISCELLANEOUS

Art. 1528c. Telephone Cooperative Act

Definitions

Sec. 2.

(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, or determined to have less than one thousand five hundred (1,500) inhabitants as provided by Subsection (4) of Section 4 of this Act. As amended Acts 1953, 53rd Leg., p. 595, ch. 238, § 2.

Emergency. Effective May 28, 1953.

Powers of corporation

Sec. 4.

(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, except where the governing body (the City Council of an incorporated area and Commissioners Court in an unincorporated area) after published notice and public hearing determines the population of such incorporated or unincorporated city, town or village has decreased below one thousand five hundred (1,500) inhabitants since taking and publishing the last preceding Federal Census, which order shall be entered of record in the official minutes of said governing body and shall be accepted as a true and correct determination of such population for all purposes hereunder unless contest thereof be filed within sixty (60) days from date of such order, or the official entry thereof, by any company or person at interest or living in the affected area, in a court of competent jurisdiction, in which event the question shall abide the result of such contest; and provided further that this

Subsection shall not be considered as a limitation or expansion of the provisions of Subsection (4) of Section 4. As amended Acts 1953, 53rd Leg., p. 595, ch. 238, § 1.

Emergency. Effective May 28, 1953.

CHAPTER NINETEEN—FOREIGN CORPORATIONS

Art. 1529. 1314—20 Permit; acts not considered doing or transacting business

Section 1. Any corporation for pecuniary profit, except as hereinafter provided, organized or created under the laws of any other state, or of any territory of the United States, or of any municipality of such State or territory, or of any foreign government, sovereignty or municipality, desiring to transact or solicit business in Texas, or to establish a general or special office in this State, shall file with the Secretary of State a duly certified copy of its articles of incorporation; and thereupon such official shall issue to such corporation a permit to transact business in this State for a period of ten (10) years from the date of so filing such articles of incorporation. If such corporation is created for more than one purpose, the permit may be limited to one or more purposes.

Sec. 2. Without excluding other activities which may not constitute transacting business in this State, a foreign corporation shall not be considered to be transacting or doing business in this State, for the purposes of this Chapter or Chapter 376, Acts of the Regular Session of the Forty-eighth Legislature,[1] by reason of carrying on in this State any one or more of the following activities:

(1) Maintaining bank accounts.

(2) Appointing and maintaining transfer agents and registrars for the transfer, exchange, and registration of securities issued by it, or appointing and maintaining trustees or depositaries with relation to its securities.

(3) Holding meetings of its directors or shareholders.

(4) Creating evidences of debt, mortgages, or liens on real or personal property.

(5) Maintaining or defending any action or suit or any administrative or arbitration proceedings, or effecting the settlement thereof or the settlement of claims or disputes to which it is a party.

(6) Securing or collecting debts due to it or enforcing any rights in property securing the same.

(7) Acquiring, in transactions outside Texas, or in interstate commerce, of debts secured by mortgages or liens on real or personal property in Texas, collecting or adjusting of principal and interest payments thereon, enforcing or adjusting any rights in property securing said debts, taking any actions necessary to preserve and protect the interest of the mortgagee in the said security, or any combinations of such transactions. As amended Acts 1953, 53rd Leg., p. 468, ch. 155, § 1.

1 Article 2031a.

Emergency. Effective May 15, 1953.

Section 2 of the Act of 1953 provided that partial invalidity should not affect the validity of any other section or portion of a section of the Act.

CHAPTER NINETEEN "A"—NON-PAR CORPORATIONS

Art. 1538n. Allotment, sale and option of shares to employees

Any corporation organized under the provisions of Chapter 77, Acts of the Thirty-ninth Legislature, Regular Session, 1925, as amended by the Forty-first Legislature, and the Forty-ninth Legislature [1], may, upon such terms and restrictions as its Board of Directors may prescribe, adopt and carry out a plan for the issuance or purchase and the allotment and sale to employees, including officers, of the corporation and/or of any parent or subsidiary corporation of, and/or the granting of options to employees, including officers, of the corporation and/or of any parent or subsidiary corporation for the purchase of, any unissued or issued shares of such corporation and/or of any such parent or subsidiary corporation, at a price or prices equal to or less than the market value thereof, at the time of such sale or the granting of such option or the making of such allotment, as the case may be, and for the payment of such shares in installments or at one time; provided, when the option is to purchase unissued shares of the corporation granting the option, such plan shall be authorized by the Charter of the corporation granting the option, or any amendment of such Charter, or by the written consent or vote of the holders of not less than a majority of the shares of stock of such corporation entitled to vote at the time the plan is adopted; and, provided further, unissued shares otherwise subject to pre-emptive rights may be allotted or sold or optioned under such plan free from such pre-emptive rights only with such written consent or vote of the holders of the shares entitled to exercise pre-emptive rights as shall be specified in the Charter, bylaws or other document which defines such pre-emptive rights. Unless otherwise specifically so provided in the Charter of the corporation granting the option or making the allotment, or in an amendment of such Charter, there shall not be deemed to be any pre-emptive rights with respect to the issued shares. As used herein "unissued shares" shall mean shares not previously issued, and "issued shares" shall mean shares previously issued and outstanding, including but not limited to shares reacquired and held by the issuing corporation or acquired for its account. Acts 1951, 52nd Leg., p. 214, ch. 126, § 1, as amended Acts 1953, 53rd Leg., p. 102, ch. 68, § 1.

1. Article 1538a et seq.

Emergency. Effective April 21, 1953.

TITLE 33—COUNTIES AND COUNTY SEATS

CHAPTER THREE—CORPORATE RIGHTS AND POWERS

Art. 1577. 1370, 794, 681 Sale or lease of real estate

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, and notice of said public auction shall be advertised at least twenty (20) days before the day of sale, by the officer, by having the notice thereof published in the English language once a week for three (3) consecutive weeks preceding such sale in a newspaper in the county in which the real estate is located and in the county which owns the real estate, if they are not the same. The deed of such Commissioner, made in conformity to such order for and in be-

half 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. Provided, however, that where abandoned right-of-way property is no longer needed for highway or road purposes and the county decides to sell said right-of-way property, it shall be sold with the following priorities: (1) to abutting or adjoining landowners; (2) to the original grantors, his heirs or assigns of the original tract from whence said right-of-way was conveyed; or (3) at public auction as provided above. 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. As amended Acts 1949, 51st Leg., p. 904, ch. 485, § 1; Acts 1953, 53rd Leg., p. 447, ch. 133, § 1.

Emergency. Effective May 14, 1953.

Conveyances to state in consideration of establishment of tuberculosis sanitorium, see art. 3183d.

CHAPTER FIVE—COUNTY SEATS

Art. 1605. 1399 Location of offices

The County Judge, Sheriff, Clerks of the District and of the County Courts, County Treasurer, Assessor and Collector of Taxes, County Surveyor and County Attorney of the several counties of this State, shall keep their offices at the county seats of their respective counties; provided, however, that in all counties having a city or cities, other than the county seats, within their boundaries, having a population of five thousand (5,000) and over, and in counties of over three hundred fifty thousand (350,000), according to the last Federal Census, the Assessor and Collector of Taxes when authorized by order of the Commissioners Court may maintain a branch office in said city or cities, and may appoint one or more Deputies for said offices, and the salaries to be paid said Deputies together with the office rent and other expenses incidental to maintaining said offices shall be considered as a part of the necessary expenses of the Assessor and Collector of Taxes and shall be paid in the manner now provided by law for the payment of the expenses of the Assessor and Collector of Taxes; and provided further that in all counties having a population of more than seventy thousand (70,000), according to the last Federal Census, and containing one or more cities or towns, other than the county seat, which has in excess of one thousand (1,000) inhabitants, according to the last Federal Census, said Tax Assessor and Collector with the consent and approval of the Commissioners Court may maintain a branch office and may appoint a Deputy Tax Collector in each such town or city, who shall have the right to collect taxes from all persons who desire to pay their taxes to him, and to issue a valid receipt therefor. Such Deputy shall enter into such bond, payable to the County Judge of the County, as the Tax Assessor and Collector and Commissioners Court of the county may require. The period of time such branch offices shall be maintained, and the salary of such Deputy Collector and the period of time he shall hold such office shall be fixed by the Commissioners Court and such Deputy Collector shall be subject to all of the terms and provisions of the law relating to Deputy Tax Collectors. The Tax Collector shall remain liable on his bonds for all taxes collected by such Deputy, and nothing herein shall be construed as a limitation on the liability of the bonds of either the Tax Collector or such

Deputy. Nothing contained herein shall be construed as making it mandatory upon the Assessor and Collector of Taxes and the Commissioners Courts of such counties to maintain such branch offices and appoint such Deputies, but the establishment of such branch offices and the appointment shall wholly be within the discretion of the Commissioners Courts of such counties. When such branch office or offices are established and a Deputy or Deputies are appointed hereunder, the salary or salaries to be paid and expense necessary to maintain said office or offices shall be considered as a part of the necessary expenses of the Assessor and Collector of Taxes, and shall be paid as now provided by law for the payment of the expenses of the Assessor and Collector of Taxes. As amended Acts 1953, 53rd Leg., p. 49, ch. 39, § 1.

Emergency. Effective March 20, 1953.

CHAPTER 8.—COUNTY FIRE MARSHAL [New]

Art. 1606c. Counties with over 350,000 inhabitants

Establishment of office; compensation; facilities; exemption from liability

Section 1. The Commissioners Court in all counties having a population in excess of three hundred fifty thousand (350,000) inhabitants according to the last preceding Federal Census may, at its option and if it deem advisable, by proper order set up and establish the office of County Fire Marshal for such period of time as it may desire, but not to exceed the term for which the members of said Court are elected; said Court may provide for such compensation to be paid the County Fire Marshal as in its judgment it may deem advisable. Authority is granted to such Commissioners Court to provide office facilities, equipment, transportation, assistants and professional services as it may deem necessary for said County Fire Marshal for the proper execution of his duties. Except in cases of gross neglect or wilful malfeasance in office, said County Fire Marshal, his assistants or employees, shall not be answerable in damages, for any acts or omissions, to any persons in the performance of his or their duties. As amended Acts 1953, 53rd Leg., p. 668, ch. 252, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the amendatory Act of 1953 repealed conflicting laws and parts of laws.

TITLE 34—COUNTY FINANCES

I. GENERAL PROVISIONS

I. GENERAL PROVISIONS

Art. 1630b. Change fund in counties of over 600,000 population

Section 1. The Commissioners Court of any county having a population of over six hundred thousand (600,000) by the last preceding Federal Census may set aside from the general fund an amount not to exceed One Thousand Dollars ($1,000) for the use by any county or district official collecting public funds as a change fund which said fund is to be used only for making change in connection with collections due and payable to

the county, the State of Texas or any political subdivision for which collections are lawfully made by said county or district official.

Sec. 2. The bond of each and every public official who receives such a change fund shall cover his responsibility for the correct accounting and disposition of said change fund.

Sec. 3. It shall be unlawful to use such change fund for making loans or advances, or for cashing checks or warrants of any kind.

Sec. 4. The Commissioners Court shall within its discretion have the right to recall any part or all of said change funds at any time. Acts 1953, 53rd Leg., p. 376, ch. 100.

Emergency. Effective May 1, 1953.

Section 5 of the Act of 1953 provided that 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.

Title of Act:

An Act providing that the Commissioners Court of any county having a population of over six hundred thousand (600,000) by the last preceding Federal Census may set aside from the general fund amounts not to exceed One Thousand Dollars ($1,000) for any one collecting office of the county to be used in making change; providing that the bonds of each and every public official shall cover his responsibilities for the correct accounting and disposition of said change funds; making it unlawful to use such change funds for making loans or advances or for cashing checks or warrants of any kind; providing that the Commissioners Court may recall change funds at any time; repealing all laws and parts of laws of this State in conflict with the Act to the extent of such conflict only; and declaring an emergency. Acts 1953, 53rd Leg., p. 376, ch. 100.

2. COUNTY AUDITOR

Art. 1645a—8. Office abolished in counties of 3,000 to 25,500

No County Auditor shall hereafter be appointed in any county having a population of not more than twenty-five thousand, five hundred (25,500) and not less than three thousand (3,000) where no such County Auditor has been appointed by the District Judge prior to the effective date of this Act, except upon the petition of the County Commissioners Court and in all such counties the duties of such County Auditor in such County shall be performed by other officers as may be prescribed by general law. Acts 1951, 52nd Leg., p. 693, ch. 399, § 1, as amended Acts 1953, 53rd Leg., p. 574, ch. 217, § 1.

Emergency. Effective May 27, 1953.

TITLE 35—COUNTY LIBRARIES

2. LAW LIBRARY

2. LAW LIBRARY

Art. 1702i. County law libraries in counties of 350,000 or less

Authority to establish

Section 1. The Commissioners Court of all counties within this State having a population of three hundred fifty thousand (350,000) or less shall have the power and authority by first entering an order for that purpose, to provide for, maintain and establish a County Law Library.

Establishment on initiative of Commissioners Court; appropriations

Sec. 2. The Commissioners Court of any county may establish and provide for the maintenance of such County Law Library on its own initiative, and appropriate the sum of Ten Thousand ($10,000.00) Dollars 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.

Gifts and bequests

Sec. 3. The Commissioners Court of 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 of all 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.

Costs; law library fund

Sec. 4. For the purpose of establishing County Law Libraries after the entry of such order, there may be taxed, collected and paid as other costs in each civil case, except suits for delinquent taxes, hereafter filed in every county or District Court, a sum to be fixed by the Commissioners Court of the respective counties within the State of Texas, not to exceed Five ($5.00) Dollars in each case; 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 "County Law Library Fund". Such fund shall not be used for any other purpose.

Managing committee

Sec. 5. The Commissioners Court of such counties may vest the management of such library in a committee to be selected by the Bar Association of such county, but the acts of such committee shall be subject to the approval of the Commissioners Court.

Salaries

Sec. 6. The salary of the custodian or librarian and such other employees or assistants as may be necessary shall be fixed by the Commissioners Court and shall be paid out of the funds collected under this Act, or from appropriations made under this Act.

Administration of fund; rules; space and shelving

Sec. 7. Such fund shall be administered by the Commissioners Court, or under its direction, for the purchase, lease or maintenance of a Law Library, and furniture and equipment necessary thereto, in a place convenient and accessible to the Judges and litigants of such county; the Commissioners Courts of counties affected by this Act shall make rules for the use of books in said library, and shall provide suitable space and shelving for housing same.

Custody and use of funds; claims

Sec. 8. All funds for 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.

Partial invalidity

Sec. 9. If any section, paragraph, clause, phrase, sentence, or portion of this Act shall be held invalid or unconstitutional, such invalidity shall not affect the remainder thereof. Acts 1953, 53rd Leg., p. 1014, ch. 416.

Effective 90 days after May 27, 1953, date of adjournment.

The title of the Act of 1953 purported to amend article 1702h, but no amendatory language appeared in the body of the act, and as the Act of 1953 does not apply to all of the counties, as did article 1702h, it is not clear that it is superseded.

TITLE 37—COURT—SUPREME

CHAPTER THREE—TERMS AND JURISDICTION

Art. 1728. 1521, 940, 1011 Appellate jurisdiction

The Supreme Court shall have appellate jurisdiction co-extensive with the limits of the State, extending to all questions of law arising in the following cases when same have been brought to the Courts of Civil Appeals from appealable judgment of trial courts:

1. Those in which the judges of the Courts of Civil Appeals may disagree upon any question of law material to the decision.

2. Those in which one of the Courts of Civil Appeals holds differently from a prior decision of another Court of Civil Appeals, or of the Supreme Court upon any question of law material to a decision of the case.

3. Those involving the construction or validity of statutes necessary to a determination of the case.

4. Those involving the revenues of the State.

5. Those in which the Railroad Commission is a party.

6. In any other case in which it is made to appear that an error of substantive law has been committed by the Court of Civil Appeals which affects the judgment, but excluding those cases in which the jurisdiction of the Court of Civil Appeals is made final by statute. As amended Acts 1953, 53rd Leg., p. 1026, ch. 424, § 1.

Emergency. Effective Sept. 1, 1953.

Section 3 of the amendatory Act of 1953 read as follows: "This Act shall take effect on the first day of September, 1953. It shall not affect any business which may be before the Supreme Court at that time, either as to the cases in which application for writs of error or writs of mandamus have been granted or as to applications for writs of error or writs of mandamus theretofore filed, or as to matters then pending or thereafter filed with reference to any of such business; provided that if a judgment of the Court of Civil Appeals shall be reversed and the cause remanded such case shall thereafter proceed under the provisions of this Act."

TITLE 39—COURT OF CIVIL APPEALS

CHAPTER ONE—TERMS AND JURISDICTION

Art. 1821. 1591, 996 Judgment conclusive on law

Except as herein otherwise provided, the judgments of the Courts of Civil Appeals shall be conclusive on the law and facts, nor shall a writ of error be allowed thereto from the Supreme Court in the following cases, to wit:

1. Any civil case appealed from the County Court or from a District Court, when, under the Constitution a County Court would have had original or appellate jurisdiction to try it, except in probate matters, and in cases involving the Revenue Laws of the State or the validity or construction of a Statute.

2. All cases of slander.

3. All cases of divorce.

4. All cases of contested elections of every character other than for State officers, except where the validity of a Statute is questioned by the decision.

5. In all appeals from interlocutory orders appointing receivers or trustees, or such other interlocutory appeals as may be allowed by law.

6. In all other cases as to law and facts except where appellate jurisdiction is given to the Supreme Court and not made final in said Courts of Civil Appeals.

It is provided, however, that nothing contained herein shall be construed to deprive the Supreme Court of jurisdiction of any case brought to the Court of Civil Appeals from an appealable judgment of the trial court in which the judges of the Courts of Civil Appeals may disagree upon any question of law material to the decision, or in which one of the Courts of Civil Appeals holds differently from a prior decision of another Court of Civil Appeals or of the Supreme Court upon a question of law, as provided for in Subdivisions (1) and (2) of Article 1728. As amended Acts 1953, 53rd Leg., p. 1026, ch. 424, § 2.

Emergency. Effective Sept. 1, 1953.

TITLE 41—COURTS—COUNTY

CHAPTER ONE—THE COUNTY JUDGE

Art. 1934a—15. Employment and salary of secretary or stenographer in all counties

Section 1. Whenever any County Judge of this State shall require the services of a secretary or stenographer, he shall apply to the Commissioners Court of his County for authority to employ such secretary or stenographer. If the Commissioners Court determines that the services of a secretary or stenographer is needed for the County Judge, it shall enter an order authorizing the County Judge to employ a secretary or stenographer and the Commissioners Court shall prescribe the salary to be paid such secretary or stenographer. The compensation which may be allowed the secretary or stenographer for his or her services shall be any reasonable sum that the Commissioners Court may determine is proper and adequate provided the compensation shall not be less than the following prescribed minimums:

(a) In each County having a population of twenty thousand (20,000) inhabitants or less, according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive a salary of not less than Five Hundred Dollars ($500) per annum, nor more than Two Thousand, Four Hundred Dollars ($2,400) per annum.

(b) In each County having a population of at least twenty thousand and one (20,001) inhabitants and not more than fifty thousand (50,000) inhabitants according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive a salary of not less than One Thousand Dollars ($1,000) per annum, nor more than Three Thousand Dollars ($3,000) per annum.

(c) In each County having a population of at least fifty thousand and one (50,001) inhabitants and not more than one hundred thousand (100,000) inhabitants according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive a salary of not less than One Thousand, Two Hundred Dollars ($1,200) per annum, nor more than Three Thousand, Six Hundred Dollars ($3,600) per annum.

(d) In each County having a population of one hundred thousand and one (100,001) inhabitants or more, according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive a salary of not less than One Thousand, Six Hundred Dollars ($1,600), nor more than Three Thousand, Seven Hundred and Fifty Dollars ($3,750) per annum.

Sec. 2. The salaries provided in this Act shall be paid monthly out of the General Fund or Officers' Salary Fund of the County.

Sec. 3. If any section, subsection, sentence, phrase or word of this Act shall be held to be invalid, such invalidity shall not affect the remain-

ing portions of this Act and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity. Acts 1953, 53rd Leg., p. 752, ch. 300.

Emergency. Effective June 5, 1953.

Section 4 of the Act of 1953 repealed conflicting laws or parts of laws.

Title of Act:

An Act authorizing employment of a secretary or stenographer for each County Judge in the State; providing a method of employment; prescribing the salaries to be paid such secretaries or stenographers; providing the method of payment of such salaries; providing a severability clause; repealing all laws in conflict; and declaring an emergency. Acts 1953, 53rd Leg., p. 752, ch. 300.

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

COUNTY CRIMINAL COURT OF TARRANT COUNTY

Art. 1970—62a. County Criminal Court

Section 1. That there shall be created a Court to be held in Tarrant County, Texas, to be known and designated as "The County Criminal Court of Tarrant County, Texas."

Sec. 2. The County Criminal Court of Tarrant County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said County of all criminal matters and causes, original and appellate, that is now vested in the County Courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Tarrant County, Texas, shall retain as heretofore its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Tarrant County shall be the Judge of the County Court of Tarrant County, Texas, and all ex officio duties of the County Judge shall be exercised by the said Judge of the said County Court, except as in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court of Tarrant County, Texas; and

except such as have heretofore been conferred upon the Judge of the County Court at Law of Tarrant County, Texas.

Sec. 4. The County Criminal Court of Tarrant County, Texas, or the Judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said Court or any court or tribunal inferior to said Court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts through the State.

Sec. 5. The terms of the County Criminal Court of Tarrant County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of said County Criminal Court shall be held not less than four (4) times each year and the Commissioners Court of Tarrant County, Texas, shall fix the time at which said Court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Tarrant County in accordance with the law, a Judge of the County Criminal Court, hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said Court elected at any General Election shall hold office for two (2) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said Court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a Judge of a court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Tarrant for two (2) years next preceding his appointment or election.

Sec. 7. The Judge of the County Criminal Court of Tarrant County, Texas, shall execute a bond and take the oath of office as required by the law relating to county Judges.

Sec. 8. A special Judge of the County Criminal Court of Tarrant County, Texas, may be appointed or elected as provided by the laws relating to county courts and the Judges thereof.

Sec. 9. The County Clerk of Tarrant County, Texas, shall be the Clerk of the County Criminal Court of Tarrant County, Texas, the seal of said Court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Tarrant County, Texas." The Sheriff of Tarrant County, Texas, shall in person or by deputy, attend said Court when required by the Judge thereof. As soon as may be after the passage of this Act the Sheriff of Tarrant County, Texas, shall appoint two (2) deputy sheriffs in addition to the staff now authorized for the sheriff's office; such two (2) deputy sheriffs shall conform to the qualifications generally prescribed for deputy sheriffs. Said two (2) deputy sheriffs shall receive a salary as fixed by the Commissioners Court in an amount not exceeding the maximum salary now authorized for deputy sheriffs, to be paid monthly out of the County Treasury by the Commissioners Court from any fund available for this purpose.

Sec. 10. The Judge of the County Criminal Court of Tarrant County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said Court shall receive a salary as fixed by the Commissioners Court not to exceed Eight Thousand, Nine Hundred

Dollars ($8,900) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of law while in office.

Sec. 11. The Judge of the County Criminal Court of Tarrant County, Texas, may be removed from office in the same manner, and for the same causes as any other county Judge may be removed under the laws of this State.

Sec. 12. As soon as may be after the passage of this Act there shall be appointed by the Criminal District Attorney of Tarrant County one (1) Assistant Criminal District Attorney who shall conform to the qualifications generally prescribed for Assistant Criminal District Attorneys, such appointment to be in addition to the staff authorized for the Criminal District Attorney of Tarrant County at the time of the passage of this Act. Said additional Assistant Criminal District Attorney shall receive a salary as fixed by the Commissioners Court not less than Five Thousand, Four Hundred Dollars ($5,400) per annum, nor more than Six Thousand Dollars ($6,000) per annum, to be paid monthly out of the County Treasury by the Commissioners Court from any funds available for this purpose.

Sec. 13. As soon as may be after the passage of this Act there shall be appointed by the Criminal District Attorney of Tarrant County in accordance with the law one (1) Criminal Investigator who shall conform to the qualifications generally prescribed for Criminal Investigators, such appointment to be in addition to the staff authorized for the Criminal District Attorney of Tarrant County at the time of the passage of this Act. Said additional Criminal Investigator shall receive a salary as fixed by the Commissioners Court not less than Three Thousand, Six Hundred Dollars ($3,600) per annum, nor more than Four Thousand, Two Hundred Dollars ($4,200) per annum, plus the usual automobile allowance, to be paid monthly out of the County Treasury by the Commissioners Court from any funds available for this purpose.

Sec. 14. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court of Tarrant County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the Court and who shall hold his office at the pleasure of the Court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said Court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars ($3) shall be taxed by the clerk as costs in the case, the said Three Dollars ($3), when collected, to be paid into the County Treasury of Tarrant County, Texas.

Sec. 15. As soon as may be after this Act takes effect the Clerk of the County Court at Law of Tarrant County, Texas, and the Clerk of the Criminal District Court of Tarrant County, Texas, and the Clerk of the Criminal District Court No. 2 of Tarrant County, Texas, may transfer to the docket

of the County Criminal Court of Tarrant County, Texas, hereby created, any of the criminal cases then pending in any of the said Courts and which may properly come within the jurisdiction of the County Criminal Court of Tarrant County, Texas, hereby created, and thereafter the Judge of any of the four (4) said Courts may, in his discretion, transfer any cause or causes that may at any time be pending in his Court to any of the other Courts by an order or orders entered in the minutes of his Court, provided however, that the Court to which any such cause is transferred would have had proper jurisdiction of such cause or causes if such cause or causes had been originally instituted in said Court; and the Judge of the Court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court. Acts 1953, 53rd Leg., p. 909, ch. 375.

Effective 90 days after May 27, 1953, date of adjournment.

Section 16 of the Act of 1953 repealed conflicting laws or parts of laws in so far as in conflict. Section 17 provided that if part of the act should be held invalid the remainder of the act should nevertheless be in full force and effect.

BEXAR COUNTY AT LAW NOS. 1 AND 2

Art. 1970—301c. Salaries of judges

From and after the effective date of this Act the Judge of the County Court-at-Law No. 1, of Bexar County, Texas, and the Judge of the County Court-at-Law No. 2, of Bexar County, Texas, shall each receive an annual salary of Nine Thousand, Six Hundred ($9,600.00) Dollars. Said annual salary shall be paid to each of said Judges in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said county, upon orders of the Commissioners Court of Bexar County, Texas. Acts 1953, 53rd Leg., p. 441, ch. 129, § 1.

Emergency. Effective May 14, 1953.

Title of Act:

An Act providing that the Judges of the County Courts-at-Law Nos. 1 and 2 of Bexar County, Texas, shall receive an annual salary of Nine Thousand, Six Hundred ($9,600.00) Dollars, payable in equal monthly installments out of the General Fund of Bexar County, Texas, upon orders of the Commissioners Court; and declaring an emergency. Acts 1953, 53rd Leg., p. 441, ch. 129.

CAMERON COUNTY COURT AT LAW

Art. 1970—305b. Salary of judge

The salary of the Judge of the County Court of Law of Cameron County shall be not less than the present salary actually being paid the Judge of the County Court of Law of Cameron County and not more than Six Thousand Dollars ($6,000) to be determined annually by the Commissioners Court of Cameron County. The annual salary provided herein shall be paid in twelve (12) equal installments out of the General Fund or Officers' Salary Fund of Cameron County. Acts 1953, 53rd Leg., p. 459, ch. 145, § 1.

Emergency. Effective May 14, 1953.

Section 2 of the Act of 1953 repealed conflicting laws and parts of laws to the extent of the conflict. Section 3 provided that partial invalidity should not affect the remaining portions of the Act.

Title of Act:

An Act prescribing the minimum and maximum salary to be paid the Judge of the County Court of Law of Cameron County; repealing all laws in conflict; providing a severability clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 459, ch. 145.

PARTICULAR COUNTY COURTS

Art. 1970—310. Other acts creating or affecting jurisdiction of particular county courts

Bandera—Jurisdiction diminished; Acts 1881, Feb. 25, ch. 19, p. 13. Jurisdiction restored Acts 1953, 53rd Leg., p. 1044, ch. 431, eff. June 13, 1953.

NUECES COUNTY

Art. 1970—339. County court at law of Nueces County

Sec. 5. The times and number of terms of the County Court of Law of Nueces County shall be fixed by the Commissioners Court of Nueces County as prescribed by Section 29 of Article V of the Constitution of Texas and the terms of the County Court of Law of Nueces County shall not be less than four (4) terms per year. The terms of the County Court of Law of Nueces County shall be held in the courthouse of Nueces County. The practice in said court and appeals and writs of error therefrom shall be as prescribed by laws relating to county courts. As amended Acts 1953, 53rd Leg., p. 791, ch. 320, § 1.

Emergency. Effective June 5, 1953.

GALVESTON COUNTY PROBATE COURT

Art. 1970—342. Probate Court of Galveston County

Section 1. There is hereby created a County Court to be held in and for Galveston County, to be called the Probate Court of Galveston County.

Sec. 2. The Probate Court of Galveston County shall have the general jurisdiction of a Probate Court within the limits of Galveston County, concurrent with the jurisdiction of the County Court of Galveston 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 term of said Probate Court of Galveston 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 Galveston County, such number of such proceedings and matters then pending in the County Court of Galveston County as shall be, as near as may be, one half (½) 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 Galveston County in such matters or proceedings shall be returnable to the Probate Court of Galveston County as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed, with the County Clerk of Galveston 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 Galveston County. The County Judge of

Galveston County, in his discretion, may, by an order entered upon the Minutes of the County Court of Galveston County, on or after the first day of the initial term of said Probate Court of Galveston County, transfer to said Probate Court any such matter or proceeding then or thereafter pending in the County Court of Galveston 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 Galveston 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 Galveston County. The County Judge of Galveston County shall be the Judge of the County Court of Galveston County, and all ex officio duties of the County Judge of Galveston County, as they now exist, shall be exercised by the County Judge of Galveston County, except in so far as the same shall by this Act expressly be committed to the Judge of the Probate Court of Galveston County.

Sec. 5. The practice and procedure in the Probate Court of Galveston 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 Galveston 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 Galveston 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.

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 Galveston County, who is a bona fide resident of Galveston County, Texas, who shall be well informed in the laws of the State, and shall be a duly licensed and practicing member of the Bar of this State. 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 Galveston County 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 Galveston 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 Galveston County may be filled by the Commissioners Court of Galveston 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 Galveston County, the County Judge of Galveston 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 Galveston County and the County Judge of Galveston County a Special Judge of the Probate Court of Galveston 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 Galveston County shall be the Clerk of the Probate Court of Galveston 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 Galveston County." The Sheriff of Galveston 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 Galveston 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. Said Judge shall receive an annual salary of not less than Six Thousand, Three Hundred Dollars ($6,300), and not more than Nine Thousand Dollars ($9,000), payable in like manner as the salary of County Judge of the County Court.

Sec. 15. The Commissioners Court of Galveston County may authorize a secretary for the Judge of the Probate Court of Galveston County at a salary to be fixed by the Commissioners Court.

Sec. 16. All laws and parts of laws in conflict with the provisions of the Act are hereby repealed to the extent of such conflict only. It is hereby expressly provided that this Act shall not in any way affect the powers of District and other Courts of this State appertaining to minors, but shall be cumulative.

Sec. 17. 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 1953, 53rd Leg., p. 521, ch. 187.

Emergency. Effective May 19, 1953.

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY

CHAPTER ONE—INSTITUTION, PARTIES AND VENUE

Art. 1995. 1830, 1194, 1198 Venue, general rule

9. Crime or trespass.—A suit based upon a crime, offense, or trespass may be brought in the county where such crime, offense, or trespass was committed by the defendant, or by his agent or representative, or in the county where the defendant has his domicile. This subdivision shall not apply to any suit based upon negligence per se, negligence at common law or any form of negligence, active or passive. As amended Acts 1953, 53rd Leg., p. 390, ch. 107, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

9a. Negligence.—A suit based upon negligence per se, negligence at common law or any form of negligence, active or passive, may be brought in the county where the act or omission of negligence occurred or in the county where the defendant has his domicile. The venue facts necessary for plaintiff to establish by the preponderance of the evidence to sustain venue in a county other than the county of defendant's residence are:

1. That an act or omission of negligence occurred in the county where suit was filed.

2. That such act or omission was that of the defendant, in person, or that of his servant, agent or representative acting within the scope of his employment.

3. That such negligence was a proximate cause of plaintiff's injuries. Added Acts 1953, 53rd Leg., p. 390, ch. 107, § 2.

Effective 90 days after May 27, 1953, date of adjournment of Legislature.

Section 3 of the Amendatory Act of 1953 provided that the Act should not apply to any suit or action pending in any court of the state upon the effective date of the Act.

CHAPTER THREE—CITATION

Art. 2039a. Citation of nonresident motor vehicle owner by serving Highway Commission; forwarding notice to defendant

Acceptance of benefits of highways deemed equivalent to appointment of agent; service

Section 1. The acceptance by a nonresident of this State or the acceptance by his agent, servant, employee, heir, legal representative, executor, administrator or guardian 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 nonresident and of his agent, servant, employee, heir, legal representative, executor, administrator or guardian, 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 nonresident, his agent, servant, employee, heir, legal representative, executor, adminis-

trator or guardian, growing out of any accident, or collision in which said nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, may be involved while operating a motor vehicle or motorcycle within this State, either in person or by his agent, servant, employee, heir, legal representative, executor, administrator or guardian, and said acceptance or operation shall be a signification of the agreement of said nonresident, or his agent, servant, employee, heir, legal representative, executor, administrator or guardian, that any such process against him or against his agent, servant, employee, heir, legal representative, executor, administrator or guardian, 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 nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, 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 nonresident defendant, his agent, servant, employee, heir, legal representative, executor, administrator or guardian. As amended Acts 1953, 53rd Leg., p. 72, ch. 53, § 1.

Forwarding process; notice; return

Sec. 2. It shall be the duty of the Chairman of the State Highway Commission of the State of Texas, upon being served with process as provided in Section 1 of this Act, to immediately enclose copy of the process served upon him in a letter properly addressed to the defendant, or to his agent, servant, employee, heir, legal representative, executor, administrator or guardian, and shall forward the same by registered mail, postage prepaid. If and in the event notice of service of the process upon the Chairman of the State Highway Commission cannot be effected by registered mail or if the person to whom it is addressed refuses to accept or receive the same, then the plaintiff may cause the defendant to be served with a notice of the fact that the process has been served upon the Chairman of the State Highway Commission, stating the date of the service thereof, which notice shall also be accompanied with a certified copy of the process so served upon said Chairman of the State Highway Commission. Such notice may be served by any disinterested person competent to make oath of the fact by delivering to the person to be served in person a true copy of such notice, together with a certified copy of the process served upon the Chairman of the State Highway Commission. The return of service in such case shall be endorsed on or attached to the original notice stating when it was served and upon whom it was served and it shall be signed and sworn to by the party making such service before any person authorized by the Statutes of this State to make affidavit under the hand and official seal of such officer. As amended Acts 1953, 53rd Leg., p. 72, ch. 53, § 1.

Certificate of Chairman of Highway Commission

Sec. 4. The Chairman of the State Highway Commission shall upon request of a party and upon the payment of a fee of Three Dollars ($3), to [1] certify to the court out of which said process is issued or in which any suit or action may be pending against such nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guard-

ian, the occurrence or performance of any of the duties, acts, omissions, transactions or happenings contemplated or required by this Act, including the wording of any registered letter received, and his certificate, as well as the wording of said registered letter receipt, shall be accepted as prima-facie evidence and proof of the statements contained therein. As amended Acts 1953, 53rd Leg., p. 72, ch. 53, § 1.

1 So in enrolled bill. The word "to" should probably be omitted.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER SEVEN—THE JURY

3. JURY FOR THE WEEK

Art. 2122. 5218–19–20 Pay of jurors

Each Juror in the district or county court or county court at law shall receive not less than Four Dollars ($4) and not more than Five Dollars ($5) for each day or fraction of a day that he attends court as such juror, to be paid out of the jury fund of the county. The amount of compensation shall be determined by the commissioners court of each county annually within the minimum and maximum prescribed herein. Check drawn by Clerk of the District Court of the County on the Jury Fund may be transferred by endorsement and delivery and shall be receivable at par from the holder for all county taxes. The same per diem shall be paid to all persons responding to the process of the court but who are excused by the court from jury service for any cause, after being tested on their voir dire. As amended Acts 1945, 49th Leg., p. 371, ch. 239, § 3; Acts 1953, 53rd Leg., p. 917, ch. 379, § 1.

Emergency. Effective June 8, 1953.

4. THE JURY IN COURT

Art. 2135. [5118] [3142] [3013] Jury service

4. All physicians, dentists, and attorneys engaged in actual practice. As amended Acts 1953, 53rd Leg., p. 781, ch. 310, § 1.

Emergency. Effective June 5, 1953.

CHAPTER NINE—JUDGMENTS 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, or suits founded upon a sworn account or accounts, 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 1953, 53rd Leg., p. 101, ch. 67, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER THIRTEEN—GENERAL PROVISIONS

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, in any county in this State which constitutes in itself a judicial district, and having a population in excess of six hundred thousand (600,000) inhabitants, according to the last preceding or any future Federal Census, shall receive a salary of not less than Forty-eight Hundred ($4800.00) Dollars per annum, nor more than Sixty-six Hundred ($6600.00) Dollars per annum, in addition to the compensation for transcript fees as provided by law. Said salaries shall be fixed and determined annually by the County Commissioners Court; provided, however, that the judges of the judicial districts and the County Courts-at-Law shall annually make recommendations to the Commissioners Court as to the fixing of such salaries. Such salary shall be in addition to the transcript fees and traveling and hotel expenses of official shorthand reporters now or hereafter provided by law. The salaries of such reporters shall be paid monthly by the Commissioners Court of the county in which the service is performed out of any funds available for the purpose, in the same manner as such salaries have heretofore been paid.

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, in any county in this State having a population in excess of three hundred sixty thousand (360,000) inhabitants, but less than six hundred thousand (600,000) inhabitants, according to the last preceding or any future Federal Census, shall receive a salary of Sixty-six Hundred ($6600.00) Dollars per annum, in addition to compensation for transcript fees as provided by law. Said salary shall be paid in twelve (12) equal monthly installments out of the General Fund, Officers Salary Fund, the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Court of any such county, and shall be in addition to traveling and hotel expenses of official shorthand reporters now or hereafter provided by law.

The official shorthand reporter in each of all other Judicial District Courts, civil or criminal, and the official shorthand reporter in each of all other County Courts-at-Law, civil or criminal, in this State shall receive a salary of not less than Twenty-seven Hundred and Fifty ($2750.00) Dollars per annum, and not more than Sixty-six Hundred ($6600.00) Dollars per annum; said salary shall be fixed and determined by the District Judges of such Judicial District Courts, civil or criminal, and the Judges of such County Courts-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 provided by law; and the salary shall be paid monthly out of the General Fund, Officers Salary Fund, Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Court of the county or counties in which the court sits, and in which the service is performed.

It is further provided that before any increase in salary shall become effective, notice thereof shall be printed one time in at least one (1) newspaper in each county of the judicial district, the cost of publication of said notice to be paid by the Commissioners Court of each county out of any funds available. As amended Acts 1953, 53rd Leg., p. 1017, ch. 418, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Sections 2 and 3 of the Act of 1953 read as follows:

"Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only, except that nothing contained herein shall be construed to repeal, affect, or amend Articles 2326A, 2326H, 2327a–1, and 2327C of Chapter 13, Title 42. The last four mentioned Acts shall remain in full force and effect.

"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."

Art. 2326k. Combined with 2326

This article derived from Acts 1951, 52nd Leg., p. 688, ch. 395, and relating to the compensation of official short hand reporters in counties of 600,000 or more population, was treated as an amendment of art. 2326, by Acts 1953, 53d Legislature, ch. 418, which amends art. 2326, as amended by Acts 1951, 52nd Leg., p. 688, ch. 395, to read as set out in Art. 2326, thereby eliminating this article.

5. ADVISORY JUDICIAL COUNCIL

Art. 2328a. Advisory judicial council, membership, duties

Ex officio members

Sec. 3. The ex-officio members of the Council shall consist of the Chief Justice of the Supreme Court; two Justices of the Courts of Civil Appeals, to be designated by the Governor; two presiding judges of the judicial administrative districts, to be designated by the Governor; and the Chairman and the immediate past Chairman of the Senate and of the House Civil Judiciary Committees. The Chief Justice of the Supreme Court may designate some other Justice of that Court to act in his stead as member of the Council. It shall be optional with each official member of the Council whether he will serve as such member. But where such official member accepts membership on the Council he shall be entitled to all the privileges of full membership thereon and be regarded and treated in every respect as a full member thereof so long as he continues a member thereof. The term of membership of an official member shall be for the term of office that qualified him for membership; and vacancies in the official membership however created shall be filled as in the first instance. As amended Acts 1953, 53rd Leg., p. 12, ch. 6, § 1.

Emergency. Effective Feb. 18, 1953.

6. ENFORCEMENT OF SUPPORT

PART I

Art. 2328b—1. General Provisions

State Information Agency

Sec. 2–A. The State Department of Public Welfare of Austin, Texas, is hereby designated as the State Information Agency under this Act. It shall be the duty of the State Information Agency to cooperate with other State Information Agencies in all other states having adopted this or a substantially similar Act by compiling and distributing information which will be beneficial to other states and to the courts of this State in the administration of this Act. Added Acts 1953, 53rd Leg., p. 917, ch. 374, § 1.

Emergency. Effective June 8, 1953.

Section 5 of the Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict only. Section 6 provided that partial invalidity should not affect the remaining portions of the Act.

PART III

Art. 2328b—3. Civil Enforcement

Remedies of a State or Political Subdivision Thereof Furnishing Support and Filing Fees

Sec. 8. Whenever the State or a political subdivision thereof has furnished support to an obligee it shall have the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made.

When the Petition is filed in the District Court of this State, it shall be accompanied by a filing fee or a pauper's affidavit which the Court may in its discretion accept in lieu of the filing fee; provided, however, that the Court of this State, acting either as an initiating or responding State, may in its discretion, direct that any part of or all of the fees or costs incurred in this State shall be paid by the county. Where the action is brought by or through the State or an agency thereof, there shall be no filing fee. As amended Acts 1953, 53rd Leg., p. 907, ch. 374, § 2.

Duty of Court of This State as Initiating State

Sec. 11. If the Court of this State acting as an initiating State finds that the Petition sets forth facts from which it may be determined that the defendant owes a duty of support and that a Court of the responding state may obtain jurisdiction of the defendant or his property, he shall so certify and shall cause three (3) certified copies of the Petition, the certificate and an authenticated copy of this Act to be transmitted to the Court of the responding state. As amended Acts 1953, 53rd Leg., p. 907, ch. 374, § 3.

Duty of the Court of This State as Responding State

Sec. 12. When a Court of this State, acting as a responding state, receives from the Court of an initiating state the aforesaid copies referred

to in Section 11, it shall (1) docket the cause, (2) notify the District or County Attorney, (3) set a time and place for a hearing, and (4) take such action as is necessary in accordance with the laws of this State to obtain jurisdiction. The District or County Attorney upon being notified of the receipt of the Petitions shall represent the plaintiff in any proceeding under this Act and shall be responsible for the presentation of the Petition and all material evidence to the Court. As amended Acts 1953, 53rd Leg., p. 907, ch. 374, § 4.

TITLE 43—COURTS—JUVENILE

Art. 2338—1. Delinquent children; juvenile court established in each county; jurisdiction

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 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 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 or more district courts, or one or more district courts and one or more criminal district courts, and having a juvenile board, such board shall designate one of such district courts or criminal district courts, or the county court, to be the juvenile court of such county, and in all other counties having two or more district courts, or one or more district courts and one or more criminal district courts, the judges of such courts and the county judge of such counties shall designate one of such district courts or criminal district courts as the juvenile court of such county; provided, however, that in the event neither of the judges of the district courts or criminal district courts is a resident of the county, the county court may be designated 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 are now, or may be hereafter, conferred upon district courts in regard to such children.

In all counties having two 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 or more district courts, or one or more district courts and one or more criminal district courts, wherein a district court or criminal district court is designated as the juvenile court of said county, 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 super-added 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 1951, 52nd Leg., p. 270, ch. 156, § 1; Acts 1953, 53rd Leg., p. 475, ch. 165, § 1.

Emergency. Effective May 19, 1953.

Section 2 of the Act of 1953 provided that partial invalidity should not affect any other portion of the act.

Art. 2338—5. Court of Domestic Relations for Harris County

Creation of court

Section 1. There is hereby created a Court of Domestic Relations in and for Harris County, Texas.

Judge; juvenile board

Sec. 2. The Judge of the Court of Domestic Relations, hereby established, shall be an attorney licensed to practice law in this State. He shall be paid a salary which shall be equal to the total salary paid to District Judges of Harris County. His salary shall be paid out of the General Fund of Harris County in twelve equal monthly installments. He shall be a member of the Juvenile Board of Harris County, which shall

hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Harris County, the County Judge of Harris County, and the Judge of the Court of Domestic Relations for Harris County, which Juvenile Board shall be authorized to designate the Court of Domestic Relations as the Juvenile Court of Harris County. Judges of the District Courts and Criminal District Courts shall continue to receive such compensation for their services as members of the Juvenile Board and otherwise from county funds as they are entitled to receive under general or special law.

Jurisdiction

Sec. 3. Said Court of Domestic Relations shall have jurisdiction concurrent with the District Courts situated in said county of all cases involving adoptions, removal of disability of minority and coverture, change of name of persons, delinquent, neglected or dependent child proceedings, 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 and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law. All cases enumerated or included above may be instituted in or transferred to said Court.

Transfer of cases and papers

Sec. 4. The County Court of Harris County, the County Courts-at-Law of Harris County, and the District Courts of Harris County may transfer to said Court of Domestic Relations any and all cases, in their respective courts in Harris County, Texas, of which cases said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

Writs and process in transferred cases

Sec. 5. All writs and process issued by or out of a District or County Court prior to the time any case is transferred by either of said courts to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of record; place of sitting; seal; dockets and records; clerk

Sec. 6. The said Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat in Harris County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Harris County shall serve as the Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform generally all such duties as are required

generally of District Clerks insofar as the same may be applicable in this Court. The seal of said Court shall have a star of five points with the words "Court of Domestic Relations, Harris County, Texas" engraved thereon.

Term of office of judge; appointment and election; removal; vacancies; cooperation by juvenile board; disqualification, etc.; special judge

Sec. 7. The term of office of the Judge of said Court of Domestic Relations shall be for a period of two years, the first full term to commence on January 1, 1955. Immediately upon passage of this Act, the Governor shall appoint a suitable person as Judge of said Court, who shall hold office until the next general election and until his successor shall be duly elected and qualified. Thereafter, said Judge shall be elected as provided by the Constitution and laws of the State for the election of County Judges. He shall be subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for removal of county officers. Vacancies in the office shall be filled by appointment by the Governor. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said Court. In the event of disqualification of the Judge to try a particular case, or because of the illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board shall select a special Judge who shall hold the court and proceed with the business thereof.

Boards and officers, duties of

Sec. 8. It shall be the duty of all officers, agents and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Harris County to furnish to said Court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same service and perform the same duties with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Court reporter; bailiff

Sec. 9. The Judge of the Court of Domestic Relations shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Harris County and whose salary shall be paid by the Commissioners Court of Harris County. A bailiff shall be designated by the Sheriff of Harris County to serve the Court as in other courts of the county.

Custody of children; investigations

Sec. 10. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of eighteen (18) years, and in any other case involving the custody of any such child, the said Court or Judge thereof, in its or his discretion, may require any such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that should be made of such child or children, and to make report thereof to

the Court, and, if desired by the Court, to produce such evidence on any hearing in such case as may have been developed in connection with such examination.

Writs and orders; contempt

Sec. 11. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms of court

Sec. 12. 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. 13. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the First Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Procedure

Sec. 14. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

District attorney to prosecute or defend

Sec. 15. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Board, County Welfare Office, County Health Officer or any other welfare agency is interested.

Transfer of cases between courts

Sec. 16. All cases, complaints and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court; but said Court, and the Judge thereof, may transfer any such cases or matters to the County or District Court having jurisdiction thereof under the laws of the State, with the consent of the Judge of said Court, to be tried in such court to which such transfer is made. Acts 1953, 53rd Leg., p. 799, ch. 325.

Effective 90 days after May 27, 1953, date of adjournment.

Section 17 of the Act of 1953 provided that partial invalidity should not affect the remainder of the Act.

Title of Act:

An Act creating a Court of Domestic Relations for Harris County, Texas; fixing its jurisdiction; conforming the jurisdiction of other courts thereto; fixing its

term; providing the manner of selection, tenure and compensation of the Judge and other officers of said Court; providing the manner of and grounds for removal of the Judge of said Court; providing for the membership of the Juvenile Board of Harris County; providing for appeals to higher courts; providing the procedure of said Court; providing for the services of certain county and district officers to said Court; containing a saving clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 799, ch. 325.

Art. 2338—6. Court of Domestic Relations for Starr County

(1) There is hereby created a Court of Domestic Relations in and for Starr County, Texas, to be known as the Starr County Court of Domestic Relations.

(2) The Judge of the Starr County Court of Domestic Relations shall have the qualifications provided by the Constitution and laws of this State for District Judges. He shall be paid an annual salary out of the general fund of the County in twelve (12) equal monthly installments, in such amount as may be fixed by law for District Judges.

(3) Said Court of Domestic Relations shall have jurisdiction concurrent with the District Court in said County of all cases involving adoptions, removal of disability of minority and coverture, change of name of persons, delinquent, neglected or dependent child proceedings, 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 and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law. Said Court shall also have and exercise jurisdiction over all civil and criminal matters over which, by general law, the County Court of Starr County would have original jurisdiction, except probate matters. Such jurisdiction shall be concurrent with that of the County Court in such county. All cases and proceedings enumerated or included above may be instituted in or transferred to the Starr County Court of Domestic Relations.

(4) The County Court of Starr County and the District Court of such County may transfer to said Court of Domestic Relations any and all cases, in their respective courts, of which cases said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

(5) All writs and process issued by or out of a District or County Court prior to the time any case is transferred by either of said Courts to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other intruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

(6) The said Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat in Starr County, shall have a seal and maintain all necessary dockets, records and minutes therein.

The sheriff of Starr County shall perform all duties in the Court of Domestic Relations provided by law for such officer to perform in the District and County Courts. The District Clerk of Starr County shall be the Clerk of the Court of Domestic Relations and shall keep a fair record of all acts done, and proceedings had, in said Court, and perform generally all such duties as are now or as may be hereafter imposed upon District and County Clerks relative to District or County Courts in so far as applicable to the Court of Domestic Relations. The seal of said Court shall have a star of five (5) points with the words "Starr County Court of Domestic Relations," engraved thereon.

(7) The Commissioners Court of Starr County, Texas, shall appoint the Judge of the Starr County Court of Domestic Relations whose term of office shall be for a period of two (2) years from December 1st preceding the date of his appointment and qualification or from the date of his appointment and qualification if same be made and effected on December 1st, who shall serve in such capacity until the expiration of his term of office and until his successor is appointed and has qualified. Upon the expiration of the term of office of such Judge, or upon the vacation of such office from whatever cause, the Commissioners Court shall appoint a successor whose term of office shall be for a term of two (2) years except that in cases of vacancy the successor shall be appointed to fill the unexpired term only. The Judge of said Court shall be subject to removal from office as provided by law for the removal of County officers.

(8) The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

(9) There shall be two (2) terms of the Starr County Court of Domestic Relations each year, one beginning on the first Monday in January and continuing until the convening of the next regular term, and one beginning on the first Monday in July and continuing until the convening of the next regular term. The first term of such Court shall begin on the first Monday following the appointment and qualification of the Judge thereof and shall continue until the convening of the next regular term thereof as above provided for.

(10) Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Fourth 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.

(11) The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

(12) The County Attorney of Starr County shall represent the State in all proceedings in the Starr County Court of Domestic Relations.

(13) All cases, 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 said Court, and the Judge thereof, may transfer any such cases or matters to the County or District Court having

jurisdiction thereof under the laws of the State, with the consent of the Judge of said Court, to be tried in such Court to which such transfer is made.

(14) The Judge of the Starr County Court of Domestic Relations shall have authority to appoint a Court Reporter in such cases as may be required by law and in such other cases as he shall deem it necessary to record and preserve the testimony. Such Court Reporter shall be paid such salary out of the general fund of the County as may be fixed by the Commissioners Court. The Judge shall also have the power and authority to appoint a Court Interpreter in such cases as may be necessary who shall be paid such fees and compensation out of the general fund of the County, for such service as may be fixed by the Judge, and approved by the Commissioners Court. Acts 1953, 53rd Leg., p. 1047, ch. 434, § 1.

Emergency. Effective June 13, 1953.

Section 2 of the Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict, but provided that otherwise the act should be cumulative of existing laws, Section 3 provided that partial unconstitutionality should not affect the remaining portions of the Act.

TITLE 44—COURTS—COMMISSIONERS

1. COMMISSIONERS COURTS

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 seventy-one thousand (71,000) according to the last preceding Federal Census. As amended Acts 1953, 53rd Leg., p. 905, ch. 371, § 1.

Emergency. Effective June 8, 1953.

2. POWERS AND DUTIES

Art. 2368a. Requirements governing advertising for bids by counties and cities

Lump sum basis; unit price basis; changes in plans and specifications

Sec. 2a. Contracts for the construction of public works or the purchase of materials, equipment and supplies may be let under the provisions of Section 2 on a lump sum basis or on a unit price basis, as the governing body or Commissioners Court shall determine. In the event a contract is to be let on a unit price basis, the information furnished bidders shall specify the approximate quantities estimated upon the best available information, but the compensation paid the contractor shall be based upon the actual quantities constructed or supplied.

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

In the event it becomes necessary to make changes in the plans or specifications after performance of a contract has been commenced, or it becomes necessary to decrease or increase the quantity of work to be performed or materials, equipment or supplies to be furnished, the Commissioners Court or governing body shall be authorized to approve change orders effecting such changes but the total contract price shall not be increased thereby unless due provision has been made to provide for the payment of such added cost either by appropriating available funds for that purpose or by authorizing the issuance of time warrants as provided in the Act amended hereby.

Provided, however, that the original contract price may not be increased under the provisions of this Section 2a by more than twenty-five (25%) per cent or decreased more than twenty-five (25%) per cent without the consent of the contractor to such decrease. Added Acts 1953, 53rd Leg., p. 383, ch. 105, § 1.

Emergency. Effective May 8, 1953.

Contracts for purchase of machinery

Sec. 2b. Contracts for the purchase of machinery for the construction and/or maintenance of roads and/or streets, may be made by the governing bodies of all counties and cities within the State in accordance with the provisions of this Section. The order for purchase and notice for bids shall provide full specification of the machinery desired and contracts for the purchase thereof shall be let to the lowest and best bidder. Added Acts 1953, 53rd Leg., p. 383, ch. 105, § 1.

Emergency. Effective May 8, 1953.

Art. 2368a—2. Validation; contracts, scrip, warrant and proceedings; bonds and proceedings for issuance

Sec. 2. In every instance since the approval by the Governor of Texas on May 11, 1951, of Chapter 164, Acts of the 52nd Legislature, Regular Session, 1951 (Senate Bill No. 105, page 281),[1] 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 or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city for the cost of such public works or improvements, land, materials, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved; provided, that such scrip or time warrants themselves shall not be ratified, validated, confirmed and approved by this Act unless the Commissioners Court or the governing body, as the case may be, shall have heretofore specifically and officially found and declared in effect 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 and issued. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work,

where such Commissioners Court or governing body shall have heretofore specifically and officially found and declared in effect that such county or city has actually received the full benefit of the work performed or the materials and supplies furnished to the full extent of the amount of scrip or time warrants so issued, are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred thousand (300,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

1 Article 2368a, §§ 5, 6.

Sec. 3. All proceedings, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city authorizing the issuance of bonds for the purpose of refunding time warrants issued by any county or city and all refunding bonds heretofore issued for such purpose are hereby in all things validated, ratified, approved and confirmed, and such refunding bonds now in process of being issued and authorized by proceedings, ordinances, and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, ordinances, resolutions or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of three hundred thousand (300,000), according to the last preceding Federal Census, or any proceedings, ordinances, resolutions or other instruments, or bonds the validity of which is involved in litigation at the time this Act becomes effective. Acts 1953, 53rd Leg., p. 383, ch. 105.

Emergency. Effective May 8, 1953.

Section 1 of the Act of 1953 amended art. 2368a.

Art. 2368a—3. Validation of contracts, scrip and time warrants; exceptions

In every instance, since the approval by the Governor of Texas on May 3, 1947, of Chapter 173, Acts of the Fiftieth Legislature of the State of Texas, Regular Session, 1947,[1] where the Commissioners Court of a county or the governing body of a city in this State has entered into a contract 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 issued by the Commissioners Court or a governing body, whether issued to the contractor for the construction of public works, the seller of land or interests in land, or issued to the person, firm or corporation furnishing materials, supplies or equipment and personal services, or issued to the person, firm or corporation furnishing money to the county or governing body in the purchase of time warrants, where the county receives full face value of the time warrants and the time warrants do not exceed four per cent (4%) interest and there has been no fraud whatsoever upon the part of the person, firm or corporation buying said time warrants, and the said

county or governing body received full face value for such 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; however, it is expressly provided that this Act 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 and 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 1953, 53rd Leg., p. 920, ch. 382, § 1.

1 Article 2368a.
Emergency. Effective June 8, 1953.
Section 2 of the Act of 1953 repealed conflicting general and special laws.

Art. 2372a—1. Compensation of interpreters

The Commissioners Court of each county in this State having a population in excess of five hundred thousand (500,000) inhabitants according to the last preceding Federal Census is hereby authorized to pay for the services of interpreters employed by the various courts within their respective counties a sum not to exceed Ten ($10.00) Dollars per day, which is to be paid out of the General Funds of the county upon warrants issued by the respective courts or clerks thereof in favor of the persons rendering such services; provided, however, that such interpreter shall be paid only for the time he is actually employed. Acts 1953, 53rd Leg., p. 452, ch. 138, § 1.

Emergency. Effective May 14, 1953.
Section 2 of the Act of 1953 repealed all conflicting laws and parts of laws to the extent of the conflict.

Title of Act:
An Act providing for the payment of interpreters employed by the courts in counties having a population in excess of five hundred thousand (500,000) inhabitants; repealing conflicting laws; and declaring an emergency. Acts 1953, 53rd Leg., p. 452, ch. 138, § 1.

Art. 2372l. Zoning of Padre Island

Legislative finding

Section 1. The Legislature finds as a matter of fact that that portion of Padre Island lying within Cameron and Willacy Counties is frequented for recreational purposes by citizens from every part of the State and that the orderly development and utilization of this area is a matter of concern to the entire State. The Legislature further finds as a matter of fact that buildings on islands which are frequented as resort areas tend to become congested and to be put to uses which interfere with the proper use of the area as a place of recreation, to the detriment of the health, safety, morals, and the general welfare of the public.

Authority of commissioners' courts

Sec. 2. For the purpose of promoting health, safety, peace, morals and the general welfare of the community, including the recreational use of county parks, the Commissioners Courts of Cameron and Willacy Counties are hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes, and to regulate the placing of water, sewerage, park and other public require-

ments on such island in areas of such island lying outside the corporate limits of a city, town or village, and within two miles of any publicly owned park or recreational development and all areas which lie within two miles of any beach, wharf or bath house which is used by as many as five hundred persons annually.

Districts

Sec. 3. For any or all of said purposes the Commissioners Court of each said county may divide said area in said islands into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this Act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

Purposes in View

Sec. 4. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets and roads; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements, and to assist in developing said island into parks, playgrounds and places of recreation for the inhabitants of the State of Texas, and other states and nations. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout said islands, and it is hereby provided that this Act shall not enable said Commissioners Courts to require the removal or destruction of property existing at the time said Commissioners Courts shall take advantage of this Act.

Method of Procedure

Sec. 5. The said Commissioners Courts shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, no such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in a paper of general circulation in each said county.

Changes

Sec. 6. Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such change, signed by the owners of twenty (20%) per cent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 200 feet therefrom, or from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the Commissioners Court. The provisions of the previous section relative to public hearing and official notice shall apply equally to all changes or amendments.

Zoning Commission

Sec. 7. In order to avail itself of the powers conferred by this Act, the said Commissioners Courts shall appoint a commission, all of whom shall be residents of each said county, and to be known as the Zoning Commission, to be composed of seven (7) members, 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 said Commissioners Court shall not hold its public hearings or take action until it has received the final report of such commission. Where a Board of Park Commissioners for each said county 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 county taxes, affected by such proposed changes of classification, and to all owners of property, or to the person rendering the same for county 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 post office.

The Zoning Commission shall choose from its own membership its chairman for such tenure (not extending beyond the term of his office as a member of said commission) as it sees fit and at any time may choose from its own membership for any particular meeting or occasion, an acting chairman; and it may employ its own secretary, and at any time an acting secretary, and other technical and clerical help to be paid by each said county, compensation not in excess of the amount determined by prior order of the said Commissioners Court.

No member of the commission shall be entitled to compensation as such, but may be entitled to expenses actually incurred while serving on the commission in accordance with the provisions of any order entered by the County Commissioners Court to that effect.

Board of Adjustment

Sec. 8. The said Commissioners Court may provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of this Act may provide that the said board of adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent and in accordance with general or specific rules therein contained.

The board of adjustment shall consist of five members, each to be appointed for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The board shall adopt rules in accordance with the provisions of any order adopted pursuant to this Act. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or,

if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the county or of any municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Act or of any order adopted pursuant thereto;

2. To hear and decide special exceptions to the terms of the order upon which such board is required to pass under such order;

3. To authorize upon appeal in specific cases such variance from the terms of the order as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the order will result in unnecessary hardship, and so that the spirit of the order shall be observed and substantial justice done.

In exercising the above mentioned powers such board may, in conformity with the provisions of this Act, reverse or reaffirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such order, or to effect any variation in such order.

Any person, or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the county or of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality.

Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the board.

Upon the presentation of such petition the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

Enforcement and Remedies

Sec. 9. The said Commissioners Court may provide by order for the enforcement of this Act and of any order or regulation made thereunder. A violation of this Act or of such order or regulation is hereby declared to be a misdemeanor, and such local legislative body may provide for the punishment thereof by fine or imprisonment or both. It is also empowered to provide civil penalties for such violation.

In case any building or structure is erected, constructed, re-constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Act or of any order or other regulation made under authority conferred hereby, the proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, re-construction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct business, or use in or about such premises.

Conflict with Other Laws

Sec. 10. Wherever the regulations made under authority of this Act require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose higher standards than are required in any other statute or local order or regulation, the provisions of the regulations made under authority of this Act shall

govern. Wherever the provisions of any other statute or local order or regulation requires a greater width or size of yards, courts, or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Act, the provisions of such statute or local order or regulation shall govern.

Telephone buildings

Sec. 10a. The provisions of this Act or of any orders, regulations or restrictions made or entered under the authority of this Act, shall not apply to the location, construction, maintenance or use of central office buildings of corporations, firms, or individuals engaged in the furnishing of telephone service to the public, or to the location, construction, maintenance or use of any equipment in connection with such buildings or as a part of such telephone system, necessary in the furnishing of telephone service to the public. Acts 1953, 53rd Leg., p. 636, ch. 246.

Emergency. Effective May 27, 1953.

TITLE 45—COURTS—JUSTICE

CHAPTER SEVEN—SMALL CLAIMS COURT

Art. 2460a. Creation; jurisdiction; procedure

Creation; judge

Section 1. There is hereby created and established in each of the several counties of this State a court of inferior jurisdiction to be known as the "Small Claims Court". The justices of the peace in their several counties and precincts shall sit as judges of said courts and exercise the jurisdiction hereby conferred in all cases arising under the provisions of this Chapter.

Jurisdiction

Sec. 2. The Small Claims Court shall have and exercise concurrent jurisdiction with the Justice of the Peace Court in all actions for the recovery of money only where the amount involved, exclusive of costs, does not exceed the sum of Fifty Dollars ($50), except that when the claim is for wages or salary earned, or for work or labor performed under any contract of employment, the jurisdictional amount, exclusive of costs, shall not exceed One Hundred Dollars ($100). Provided, however, that no action may be brought in the Small Claims Court by any assignee of such action or upon any assigned claim nor by any person, firm, partnership, association or corporation engaged, either primarily or secondarily, in the business of lending money at interest, nor by any collection agency or collection agent. Provided further, however, that nothing in this Act shall prevent the bringing of any action by a legal heir or heirs on any account or claim otherwise within the jurisdiction of these Courts.

Venue

Sec. 3. All actions brought under the provisions of this Act shall be brought in the county and precinct in which the defendant resides except that when a defendant has contracted to perform an obligation in a particular county the action upon such obligation may be brought in such county. Except nothing in this Section shall conflict with Article 2392 of the Revised Civil Statutes.

Commencement of action

Sec. 4. Actions shall be commenced under the provisions of this Act whenever the claimant, or the personal representative of a deceased claimant, appears before the judge of the Small Claims Court and files a statement of his claim under oath. Such statement shall be in substantially the following form:

In the Small Claims Court of ————————, County, Texas
A. B., Plaintiff
vs.
C. D., Defendant

State of Texas }
County of ———————— }

A. B., whose post office address is ————————————,
Street and Number
———————— County, Texas, being duly sworn, on his oath deposes
City
and says that C. D., whose post office address is ————————————,
Street and number
———————— County, Texas, is justly indebted to him in the sum of
City
———————— Dollars and ———— Cents ($————), for————
————————————————————————————————
————————————————————————————————
(here the nature of the claim should be stated in concise form and without technicality, including all pertinent dates), and that there are no counterclaims existing in favor of the defendant and against the plaintiff, except ————————————————————.

————————————
Plaintiff

Subscribed and sworn to before me this ———— day of ————, 19———.

————————————
Judge

Filing fee; process

Sec. 5. Upon the filing of the said affidavit and the payment of a Two Dollar ($2) filing fee, the judge shall issue process in the same manner as any other case in Justice Court. Service being by citation served by an officer of the State duly authorized to serve other citations.

Failure of parties to appear; postponement

Sec. 6. Upon the date set for the hearing of such action, if the defendant fails to appear at the time and place specified in the notice and order to appear, he having been duly served therewith as herein provided, the judge shall enter judgment for the amount proved to be due the plain-

tiff. If the plaintiff does not appear, the judge may enter an order dismissing the action. No postponement or continuance shall be granted except for good cause shown.

Hearing

Sec. 7. If both parties appear, the judge shall proceed to hear the case. No formal pleading other than the affidavit hereinabove described, shall be required. The judge shall hear the testimony of the parties and such other witnesses as they may produce, together with such other evidence as may be offered. The hearing shall be informal, with the sole objective of dispensing speedy justice between the parties.

Plea of privilege

Sec. 8. Provided nothing in this Act shall prevent a plea of privilege which shall be filed in writing as set out in the Texas Rules of Civil Procedure and appeal may be taken from the final ruling of the justice to the County Court where a trial de novo shall be had on such plea.

Evidence and witnesses

Sec. 9. In every case before the Small Claims Court, it shall be the duty of the judge to develop all of the facts in the particular case. In the exercise of this duty, the judge may propound any question of any witness or party to the suit or upon his own motion may summon any party to appear as a witness in the suit as, in the discretion of the judge, appears necessary to effect a correct judgment and speedily dispose of such case.

Judgment and execution

Sec. 10. Upon the conclusion of the hearing the judge shall render such judgment as the justice of the case shall require. If the judgment is against the defendant, he shall pay the same forthwith, and in default of such payment execution may issue as in the justice courts.

Jury trial

Sec. 11. If either party desires a trial by jury he shall, at least one (1) calendar day prior to the date upon which the hearing is to be held, file with the Small Claims Court a request for a trial by jury, depositing with the judge, at the time such request is filed, a jury fee of Three Dollars ($3). Thereupon, a jury shall be had as in other civil cases in the justice courts.

Right of appeal

Sec. 12. Where the amount in controversy, exclusive of costs, exceeds the sum of Twenty Dollars ($20), upon the rendition of final judgment by the judge of the Small Claims Court, a dissatisfied party may appeal to the County Court or County Court at Law of the proper county in the same manner as is now provided by statute for appeals from the justice court to the County Court.

Hearing on appeal; costs; finality of judgment

Sec. 13. It shall be the duty of the County Court or County Court at Law to dispose of all such appeals with all convenient speed. The trial on appeal shall be de novo, but no further pleadings shall be required and the procedure shall be the same as that herein prescribed for the Small Claims Court. In the event of such an appeal to the County Court, all

costs not heretofore paid by the parties shall accrue until judgment is rendered by the County Court. It is specifically provided that the judgment of the County Court or County Court at Law shall be final.

Blank forms, docket books and supplies

Sec. 14. The Commissioners Court of each of the several counties shall furnish to the justices of the peace a reasonable supply of blank forms, docket books, and other supplies necessary for the use of such justices and judges when sitting as a Small Claims Court. Acts 1953, 53rd Leg., p. 778, ch. 309.

Effective 90 days after May 27, 1953, date of adjournment.

Section 15 of the Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict, section 16 provided that partial invalidity should not affect other provisions or applications of the act and declared the provisions severable.

TITLE 46—CREDIT ORGANIZATIONS

Art. 2465. Supervision; examinations and examiners; fees; 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 who shall receive, in addition to the salary fixed and determined by the Finance Commission, all necessary traveling expenses, a sworn itemized account of which shall be rendered monthly by each examiner and approved by the Commissioner; or 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 Forty ($40.00) Dollars per day per person engaged in each examination or a total fee of Three and 50/100 ($3.50) Dollars per day per One Thousand ($1,000.00) Dollars of assets or fraction thereof as reflected by the examination, whichever is lower. Such fees, together with all other fees, penalties or revenues collected by the Banking Department, shall be retained by said Department and shall be expended only for the expenses of said Department. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 5; Acts 1953, 53rd Leg., p. 477, ch. 166, § 1.

Emergency. Effective May 19, 1953.

Section 5 of the Act of 1953 provided that partial invalidity should not invalidate, impair or affect the remaining portions of the act.

Art. 2477. Conditions of loans

Section 1. 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 exceed his holdings in the credit union as represented by shares thereof, or upon approval of the credit committee and approval by two-thirds (⅔) of the members of the board of directors. No personal loan

shall be granted except for productive or provident purposes, or urgent needs, nor for a longer period than sixty (60) months. Loans to any one member shall not exceed Two Hundred ($200.00) Dollars or ten (10%) per cent of the capital and surplus, whichever shall be the larger.

Sec. 2. No State credit union shall make a loan upon security of real estate or invest its funds in obligations secured by real estate unless:

First: The security is a first lien upon such real estate or the loan or investment made by the credit union is wholly guaranteed by the Administrator of Veterans Affairs under Title III of the Servicemen's Readjustment Act of 1944,[1] as amended from time to time;

Second: The total "net balance" owing upon the indebtedness secured by such lien (a) does not exceed sixty (60%) per cent of the appraised value of such real estate and such loan or obligation provides for monthly reductions of principal in such amounts as to retire forty (40%) per cent thereof within five (5) years of the date of the credit union's loan or investment; or (b) does not exceed sixty-six and two-thirds (66⅔%) per cent of the appraised value of such real estate when such real estate consists of "residential real estate" and such loan provides for repayment in equal monthly installments in such amounts as to retire the same in its entirety, both as to principal and interest in not more than one hundred eighty (180) months from the date thereof, and further provides for equal monthly deposits during the term thereof in amounts sufficient to pay as they accrue the premiums on fire and tornado insurance and all taxes assessed against the security. The aggregate of loan and investments of the class provided for in this Section 2 made by any State credit union shall never, without the written consent of the Commissioner, exceed twenty-five (25%) per cent of the assets of the credit union;

Third: Such loan or obligation is supported by (a) either an attorney's opinion acceptable to the directors that such loan constitutes a first and prior mortgage on such real estate; or a mortgagee's title insurance policy insuring and guaranteeing such loan to be a first and prior lien on such real estate; and (b) by evidence of payment of all taxes other than taxes for the current year; (c) a written appraisal of such real estate signed by an appraiser to be approved by the directors; and (d) if the improvement situated upon such real estate constitute an appreciable portion of the security, adequate coverage to be approved by the directors insuring the interest of the credit union against loss from fire, windstorm and tornado. The above limitations shall not apply to a loan or obligation insured by the Federal Housing Administration, or to security taken to prevent loss on a loan or investment previously made in good faith;

Fourth: The term "residential real estate" as hereinabove used shall mean land on which is situated a dwelling of not more than four (4) family units, primary use of which is occupancy as a home. The term "net balance" as hereinabove used shall mean the balance obtained after deducting from any loan or obligation the portion thereof guaranteed by the Administrator of Veterans Affairs under Title III of the Servicemen's Readjustment Act of 1944, as amended from time to time. As amended Acts 1953, 53rd Leg., p. 477, ch. 166, § 2.

[1] 38 U.S.C.A. § 693 et seq.
Emergency. Effective May 19, 1953.

Art. 2483. Dissolution and conversion

Section 1. At any meeting specially called to consider the subject, the members upon the unanimous recommendation of the board of direc-

tors may vote to dissolve the association by an affirmative vote of at least two-thirds (⅔) of the members present at such meeting. A committee of three (3) shall thereupon be elected to liquidate the assets of the association; and each share of the capital stock, according to the amount paid in thereon, shall be entitled to its proportion of the proceeds after all debts of the association have been paid. In case of liquidation the Department of Banking shall be immediately notified and the liquidation proceedings shall be under the supervision of the Banking Commissioner.

Sec. 2. Any credit union now organized or that may hereafter be organized under the laws of the State of Texas may convert to a Federal credit union by reorganizing under the provisions of the Federal Credit Union Act;[1] provided such conversion has been affirmatively approved by a vote of at least two-thirds (⅔) of the members of such credit union present and voting at a special meeting called by the directors to consider the subject of conversion; and provided further, that the State credit union shall not cease to be a State credit union, subject to the supervision of the Banking Commissioner until (1) the Commissioner has been given written notice of the intention to convert for at least thirty (30) days; and (2) the credit union has filed with the Commissioner a transcript of the conversion proceedings sworn to by a majority of the qualified directors of the credit union; and (3) such credit union has received a charter to do business as a Federal credit union.

Sec. 3. Any Federal credit union chartered and operating under the Federal Credit Union Act, otherwise eligible to become a State credit union, may convert into a State credit union in accordance with Federal laws, rules and regulations, and subject to examination and approval by the Banking Commissioner of the State of Texas. As amended Acts 1953, 53rd Leg., p. 477, ch. 166, § 3.

[1] 12 U.S.C.A. § 1751 et seq.
Emergency. Effective May 19, 1953.

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 ($10.00) Dollars as a filing fee, unless said credit union shall have been chartered within the past six (6) months of the calendar year, in which case no filing fee shall be charged. Any such association that shall neglect to make the said report within the time herein prescribed shall forfeit to the State, Five ($5.00) Dollars 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 1953, 53rd Leg., p. 477, ch. 166, § 4.

Emergency. Effective May 19, 1953.

TITLE 47 — DEPOSITORIES

Art. 2530a. Deposit and substitution of securities; acceptance of certain securities by Treasurer

In the deposit and exchange or substitution of securities by state depository banks under the provisions of Chapter 1, Title 47, Revised Civil Statutes of Texas, 1925, as amended, the State Depository Board may authorize the State Treasurer to accept such securities offered for deposit and those securities offered for exchange of securities already on deposit without further action of said Board where such offered securities are bonds and certificates and other evidences of indebtedness of the United States and all other bonds which are guaranteed as to both principal and interest by the United States. Acts 1953, 53rd Leg., p. 754, ch. 302, § 1.

Emergency. Effective June 5, 1953.

Title of Act:

An Act providing that the State Depository Board may authorize the State Treasurer to accept securities offered for deposit or exchange by state depository banks under Chapter 1, Title 47, Revised Civil Statutes of Texas, 1925, as amended, where such offered securities are certain obligations of the United States and other bonds guaranteed as to principal and interest by the United States; and declaring an emergency. Acts 1953, 53rd Leg., p. 754, ch. 302.

TITLE 49—EDUCATION—PUBLIC

CHAPTER ONE—UNIVERSITY OF TEXAS

Art. 2589d. Texas Union student fee for

Section 1. The Board of Regents of the University of Texas is hereby authorized to levy a regular, fixed student fee not to exceed Five Dollars ($5) per student for each semester of the long session and not to exceed Two Dollars and Fifty Cents ($2.50) per student for each term of the summer session, or any fractional part thereof, against each student enrolled in said institution as may in their discretion be just and necessary for the purpose of operating, maintaining, improving, and equipping the Texas Union and acquiring or constructing additions thereto; provided, however, that the student body shall approve each increase of said fee in excess of One Dollar ($1) per student for each semester of the long session and Fifty Cents (50¢) per student for each term of the summer school, at an election called for that purpose by the Board of Regents of the University of Texas. Notice of any said election shall be given by publication of a substantial copy of the resolution or order of the Board of Regents calling such election and showing the amount of the increased fee and the purpose for which it is to be used. Said Notice shall be published in The Daily Texan or in any other student newspaper having general circulation among said students for three (3) consecutive days of the

week immediately preceding the date set for said selection. The Board of Regents shall canvass the returns and declare the results of any said election, and if a majority of the students voting in any said election shall vote in favor of such increase, then the Board of Regents may levy the fee in an amount not in excess of the amount authorized at said election.

The activities of the Student Union financed in whole or in part by the Student Union fee shall be limited to those activities in which the entire student body is eligible to participate and in no event shall any of the activities so financed be held outside of the territorial limits of the campus of the University of Texas. As amended Acts 1953, 53rd Leg., p. 529, ch. 193, § 1.

Sec. 3a. Said Board of Regents is hereby authorized to issue bonds under the provisions of Chapter 5, Acts, Forty-third Legislature, Second Called Session, 1934, as amended (Article 2603c, Vernon's Texas Civil Statutes), for the purpose of constructing and equipping any additions to said Texas Union and secure the same by a pledge of a building use fee to be assessed against each student enrolled in said institution. Added Acts 1953, 53rd Leg., p. 529, ch. 193, § 2.

Effective 90 days after May 27, 1953, date of adjournment.

Section 4 of the amendatory Act of 1953 provided that if any word, phrase, clause, or part of this Act is held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other word, phrase, clause, or part of this Act.

Art. 2589e. Limitation on combined fees

The combined total amount of any fee or fees levied for all Texas Union purposes, under this Act,[1] under Chapter 5, Forty-third Legislature, Second Called Session, 1934, (Article 2603c, Vernon's Texas Civil Statutes), or under any other Statute or combination of Statutes, shall never exceed Five Dollars ($5) per student for each semester of the long session or Two Dollars and Fifty Cents ($2.50) per student for each term of the summer session. Acts 1953, 53rd Leg., p. 529, ch. 193, § 3.

1 Article 2589d, §§ 1, 3a and this article.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 2603g. Lease of lands in Dallas County for hospitals, etc.

The Board of Regents of The University of Texas is hereby authorized and empowered to lease to nonprofit charitable, scientific or educational corporations organized under the Laws of the State of Texas, or to any governmental agency or agencies a tract or tracts of land situated in Dallas County, Texas, and out of land heretofore deeded by Southwestern Medical Foundation to the State of Texas. Such leases upon such tract or tracts of said lands as may be determined by the Board of Regents of The University of Texas, shall be upon such terms, conditions and provisions and for such period of years as the Board of Regents in its discretion may determine; provided that such leases shall be made only to such nonprofit corporations or Governmental agencies for the purpose of constructing, maintaining and operating a hospital, hospitals, or public health centers and services; or for the purpose of constructing, maintaining and operating dormitories and housing facilities for students attending Southwestern Medical School of The University of Texas, or persons employed by and in institutions located upon said property of the State of Texas; provided, further, that no such lease shall be for a period longer than ninety-nine (99) years; and provided, further, that in no event shall the State of Texas or The University of Texas be liable, directly or indirectly, for any expense or cost in connection

with the construction, operation and maintenance of any building or buildings, or other improvements placed upon such lease premises by any lessee. Acts 1953, 53rd Leg., p. 580, ch. 223, § 1.

Emergency. Effective May 27, 1953.

Title of Act:

An Act authorizing and empowering the Board of Regents of The University of Texas, without cost or expense to the State of Texas or The University of Texas, to lease portions of land in Dallas County, Texas, deeded to the State of Texas by Southwestern Medical Foundation, to nonprofit organizations or governmental agencies for the purpose of constructing, maintaining and operating hospitals, public health centers, dormitories and housing facilities; and declaring an emergency. Acts 1953, 53rd Leg., p. 580, ch. 223.

CHAPTER TWO—AGRICULTURAL AND MECHANICAL COLLEGE

Art. 2613a—3. Lease of lands for oil, gas or other mineral development authorized

Disposition of funds

Section 1. The Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized and empowered to lease for oil, gas, sulphur, mineral ore and other mineral developments to the highest bidder at public auction all lands used for experimental stations and all other lands under its exclusive control or any part thereof now owned by the State of Texas and acquired for the use of the Agricultural and Mechanical College of Texas and its divisions or that may hereafter be acquired for the use of the Agricultural and Mechanical College of Texas and its divisions. Any amounts received under and by virtue of this Act shall be deposited in the State Treasury to the credit of a special fund to be known as the "Agricultural and Mechanical College of Texas Special Mineral Fund," and any funds placed therein shall be appropriated by the Legislature of the State of Texas in its regular biennial appropriation bill exclusively for the Agricultural and Mechanical College of Texas and its branches or divisions; provided, the amounts received as bonuses and rentals between the effective date of this Act and August 31, 1937, are hereby appropriated to the Agricultural and Mechanical College of Texas to be expended as may be deemed proper by the Board of Directors of said College; provided, however, that the amounts received prior to August 31, 1937, as bonus money and rental money from leases of the land embraced in Experimental Station No. 4, located in Senatorial District No. 4, may be expended by the Board for the necessary improvements and maintenance of Experimental Station No. 4, and the Board is authorized to expend whatever amount they may deem necessary for improvements, livestock and maintenance of the Piney Woods Livestock Experimental Station in Senatorial District No. 4; provided, however, that any royalties received shall be placed in the special fund provided. All moneys realized from royalties and sales accruing under the terms of this Act shall be used exclusively for the purpose of creating a permanent improvement fund, the income from which shall be expended under the direction of the Board of Directors of the Agricultural and Mechanical College of Texas in erecting permanent improvements for the College and its branches and divisions.

Division of lands into lots or blocks

Sec. 2. The Board is hereby authorized to cause said lands to be surveyed or subdivided into such tracts, lots or blocks as will, in their judgment, be most conducive and convenient to facilitate the advanta-

geous sale of lease for oil, gas, sulphur, mineral ore and other minerals thereof and to make such maps and plats as may be thought necessary to carry out the purposes of this Act. The Board is further authorized to obtain authentic abstracts of title to all of said lands as they may deem necessary from time to time and to take such steps as may be necessary to perfect a merchantable title to said lands in the State of Texas.

Advertising for lease

Sec. 3. Whenever, in the opinion of the Board, there shall be such a demand for the purchase of oil, gas, sulphur, mineral ore or other mineral leases on any tract or part of any tract of land as will reasonably insure an advantageous sale, the Board shall place such oil, gas, sulphur, mineral ore or other mineral leases on said land on the market in such tract or tracts, or any part thereof, as the Board may designate. It shall cause to be advertised a brief description of the land from which the oil, gas, sulphur, mineral ore or other minerals is proposed to be leased. Such advertisement shall be made by inserting in two (2) or more papers of general circulation in this State and in addition the Board may, in its discretion, cause said advertisement to be placed in an Oil & Gas Journal published in and out of the State, and also mail copies of such proposals to the County Judge of the county where said lands are located, and mail copies of such proposals to such other persons as the Board might think would be interested therein.

The Board may sell the lease or leases to the highest bidder at public auction at the Agricultural and Mechanical College of Texas, College Station, Texas, at any hour between 10:00 A. M. and 5:00 P. M. The Board shall have the right to reject all bids. However, the highest bidder shall pay to the Board on the day of the sale twenty-five (25%) per cent of the bonus bid and the balance of the bid shall be paid to the Board within twenty-four (24) hours after being notified that the bid has been accepted. Payments shall be paid in cash, certified check or cashier's check, as the Board may direct; provided, the failure to pay the balance of the amount bid will forfeit to the Board the twenty-five (25%) per cent paid.

Bids for leases

Sec. 4. A separate bid shall be made for each tract or subdivision thereof. No bids shall be accepted which offer less than the fair market price per ton for the mineral ore or a royalty of less than one-eighth (1/8) of the gross production of oil, gas, sulphur and other minerals in the land bid upon and this minimum royalty may be increased at the discretion of the Board. Every bid shall carry the obligation to pay an amount not less than One ($1.00) Dollar per acre for delay in drilling or development; such amount to be fixed by the Board in advance of the advertisement and shall be paid every year for five (5) years unless in the meantime production in paying quantities is had upon the land or said land is re-leased by the lessee.

Sale of mineral ore located in and on said land

Sec. 4a. Mineral ore located in and on said lands may also be sold in place by the Board at not less than the fair market value as determined by the same methods as are provided for leasing of lands under this Act for development of the minerals in said lands.

Regulations on lease

Sec. 5. If in the opinion of the Board any one of the bidders shall have offered a reasonable and proper price for any tract and not less than the price fixed by the Board, the lands advertised may be leased for oil, gas, sulphur, mineral ore and other mineral purposes under the terms of this Act, and such regulations as the Board may prescribe, not inconsistent with the provisions of this Act. In the event no bid is accepted by the Board at public auction any subsequent procedure for the sale of oil, gas, sulphur, mineral ore and other mineral leases shall be in the manner above provided. Provided that no lease for oil, gas, sulphur, mineral ore and other minerals shall be made by said Board which will permit the drilling or mining for oil, gas, sulphur, mineral ore and other minerals within less than three hundred (300) feet of any building on said land, without the consent of the Board; and further providing that in making any lease on any experimental station and/or farm the lease shall provide that the operations for oil, gas, sulphur, mineral ore and other minerals shall not in any way interfere with the land as an experimental station and shall not cause the abandonment of said property or its use for experimental farm purposes; and the lessee operating said property shall drill, mine and carry on his operations in such a way as not to cause the abandonment of said property for experimental farm purposes and any such leased property shall be subject to the use by the State of Texas for all experimental purposes and said Board shall continue to operate said experimental station.

Acceptance of lease; termination

Sec. 6. If the Board shall determine that a satisfactory bid has been received for said oil, gas, sulphur, mineral ore and other mineral lands it shall accept the same and reject all other bids and file said accepted bid in the General Land Office. Whenever the royalties shall amount to as much as the yearly payments as fixed by the Board, the yearly payments may be discontinued. If before the expiration of five (5) years oil, gas, sulphur, mineral ore and other minerals shall not have been produced in paying quantities, the lease shall terminate, unless extended as hereinafter provided.

Award of lease to highest bidder; termination; extension

Sec. 7. (a) If the Board shall determine that a satisfactory bid has been received for said oil, gas, sulphur, mineral ore and other minerals, it will make an award to the bidder offering the highest price therefor, and a lease shall be filed in the General Land Office.

(b) The exploratory term of the lease as determined by the Board prior to the promulgation of the advertisement shall in no case exceed five (5) years, and each lease shall provide that the lease will terminate at the expiration of its exploratory term unless by unanimous vote of members of the Board such lease may be extended for a period of three (3) years, which lease may be extended where the Board finds that there is likelihood of oil, gas, sulphur, mineral ore and other minerals being discovered thereon by lessees, and that such lessees have proceeded with diligence to protect the interest of the State; provided, however, that if oil, gas, sulphur, mineral ore and other minerals are being produced in paying quantities from the premises, said lease shall continue in force and effect as long as such oil, gas, sulphur, mineral ore and other minerals are being so produced. Provided, that no extension hereunder may

be made by the Board until the last thirty (30) days of the original term of the lease. The lease shall include such additional provisions and regulations as the Board may prescribe to preserve the interest of the State, but not inconsistent with the provisions of this Act.

(c) Whenever, in the discretion of said Board, it is deemed for the best interest of the State to extend a lease issued by said Board, the Board is hereby granted and given full authority by unanimous vote to extend said lease for a period not to exceed three (3) years, upon the condition that the lessee shall continue to pay yearly rental as provided in the lease and such additional terms as the Board may see fit and proper to demand. The Board is hereby given full authority to extend such lease and execute an extension agreement therefor.

(d) Whenever, in the discretion of the Board, it is for the best interest of the State to prorate, or reduce production of any land, said Board shall have and is hereby given authority to execute the necessary contract to carry out such purpose.

Rentals under lease

Sec. 8. If, during the term of any lease issued under the provisions of this Act, the lessee shall be engaged in actual drilling and mining operations for the discovery of oil, gas, sulphur, mineral ore, and other minerals 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, gas, sulphur, mineral ore, and other minerals are 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, gas, sulphur, mineral ore, and other minerals are produced in paying quantities from such tract. In the event of the discovery of oil, gas, sulphur, mineral ore, and other minerals 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, to the extent that a reasonably prudent operator would do under the same and similar circumstances.

Rights of purchaser; assignments

Sec. 9. Title to all rights purchased may be held by the owners so long as the area produces oil, gas, sulphur, mineral ore, and other minerals in paying quantities. All rights purchased may be assigned. All assignments shall be filed in the General Land Office within one hundred (100) days from the date of the first acknowledgement thereof, accompanied by ten (10¢) cents per acre for each acre assigned and if not so filed and payment made, the assignment shall not be effective. All rights to any whole tract or 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 with the Chairman of the Board accompanied with One ($1.00) Dollar 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 as may be deemed reasonably necessary for and incident to the purpose of this Act.

Royalty payable to General Land Office

Sec. 10. If oil or other minerals are developed on any of the lands leased by the Board, the royalty or moneys as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, on or before the 20th day of each succeeding month for the preceding month during the life of the rights purchased, and be set aside in the State Treasury as specified in Section 1 hereof, and said funds may be used as therein provided. Said royalty or moneys paid to the General Land Office as above stipulated shall be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil, gas, sulphur, mineral ore, and other minerals produced and saved since the last report and the amount of oil, gas, sulphur, mineral ore, and other minerals produced and sold off the premises and the market value of the oil, gas, sulphur, mineral ore, and other minerals together with a copy of all daily gauges, or vats, 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, vats, or pool and gas lines, gas storage, other places of storage and other means of transportation. The books and accounts, receipts and discharges of all wells, tanks, vats, pools, meters, pipe lines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil, gas, sulphur, mineral ore, and other minerals shall at all times be subject to inspection and examination of any member of the Board of Directors of the Agricultural and Mechanical College of Texas or any duly authorized representative of said Board. The Commissioner of the General Land Office shall tender to the Board of Directors of the Agricultural and Mechanical College of Texas at the close of each month a report of all receipts from the lease or sale of oil, gas, sulphur, mineral ore, and other minerals turned into the special fund in the State Treasury.

Protection of contiguous or adjoining lands

Sec. 11. In every case where the area in which oil, gas, sulphur, mineral ore, and other minerals sold shall be contiguous or adjacent to lands which are not lands belonging to and held by the Agricultural and Mechanical College of Texas, 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 said adjacent lands to the extent that a reasonably prudent operator would do under the same and similar circumstances. In cases where the area in which the oil, gas, sulphur, mineral ore, and other minerals are sold is contiguous to other lands belonging to and held by the Agricultural and Mechanical College of Texas which have been leased or sold at a lesser royalty, the owner shall likewise protect said land from drainage from the lands so leased or sold for a 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 for forfeitures.

Forfeitures

Sec. 12. If the owner of the rights acquired under this Act shall fail or refuse to make the payments of any sum due thereon, either as rental, royalty on production or other payments, within thirty (30) days after the 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 mining 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 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 oil, gas, sulphur, mineral ore, and other minerals produced upon the leased area, and upon all rigs, tanks, vats, pipe lines, telephone lines, and machinery and appliances used in the production and handling of oil, gas, sulphur, mineral ore, and other minerals produced thereon, to secure any amount due from the owner of the said lease.

Records filed in General Land Office

Sec. 13. All surveys, files, records, copies of sale and lease contracts and all other records pertaining to the sales and leases hereby authorized 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 royalties, lease fees, rentals for delay in drilling or mining and all other payments, including all filing assignments and relinquishment fees hereunder, to be deposited in the special fund in the State Treasury to the credit of the Agricultural and Mechanical College of Texas as above provided.

Adoption of forms and regulations

Sec. 14. 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 or for the sale of mineral ore in place.

Comptroller's warrants for expenses

Sec. 15. The expenses of executing the provisions of this Act shall be paid by warrants drawn by the Comptroller of the State on the State Treasurer, and for that purpose the sum of Two Thousand ($2,000.00) Dollars or so much thereof as may be necessary is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated until September 1, 1937, after which time expenses of executing the provisions of this Act shall be paid by warrants drawn by the Comptroller of the State on the State Treasurer against the income from the special fund accumulated from leases, rentals, royalties, and other payments.

Partial invalidity

Sec. 16. If any section, subsection, paragraph, clause or sentence in this Act is declared to be unconstitutional, the same shall not affect the remaining portions of this Act. As amended Acts 1953, 53rd Leg., p. 679, ch. 260, § 1.

Emergency. Effective June 4, 1953.

CHAPTER THREE—TARLETON STATE COLLEGE

Art. 2618. Courses of study

Said College shall rank as a junior college which for the purpose of this law is designated as an institution offering four-year courses, beginning with the junior year of a four-year high school and extending to and including the sophomore year of a standard four-year college, provided that nothing in this law shall preclude the offering of such preparatory courses or short courses as may be deemed advisable; provided, further, that regular courses in the junior and senior high school year shall not be offered unless the Board of Directors decides that the number of students requesting these courses justifies their continuance. It shall be co-educational and instruction shall be offered in agriculture, engineering, home economics, and the arts and sciences connected therewith. As amended Acts 1953, 53rd Leg., p. 749, ch. 296, § 1.

Emergency. Effective June 5, 1953.

CHAPTER SIX—TEXAS TECHNOLOGICAL COLLEGE

Art. 2632d. Student fee

Section 1. The Board of Regents of the Texas Technological College of Texas is hereby authorized to levy a regular fixed student fee not to exceed Five ($5.00) Dollars per student for each semester of the long session and not to exceed Two and 50/100 ($2.50) Dollars per student for each term of the summer school, or any fractional part thereof, as may in their discretion be just and necessary for the sole purpose of operating, maintaining, and improving the Student Union Building; provided however, that the amount of this fee may be changed at any time within the limits hereinabove fixed, in order that sufficient funds to support the Student Union Building may be raised; and providing further, that any increase in the fee is initially approved by a majority vote of those students participating in a general election to be called and held for that purpose.

Sec. 2. The Auditor of the Texas Technological College shall collect said fees provided for in Section 1 hereof and shall credit the money received from the said fees to an account known as the Student Union Building Account.

Sec. 3. The money thus collected and placed in said Student Union Building Account shall be used for the purpose of operating, maintaining and improving the Student Union Building and shall be placed under the control of and subject to the order of the Board of Directors of the Student Union Building, which Board of Directors shall annually submit a

complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the year and all expenditures made incident thereto. The Board of Regents of the Texas Technological College shall make such changes in the budget as it deems necessary before approving the same, and shall then levy the student fees under the provisions of Section 1 in such amount as will be sufficient to meet the budgetary needs of the Student Union Building, within the statutory limits herein fixed. Acts 1953, 53rd Leg., p. 491, ch. 176.

Effective 90 days after May 27, 1953, date of adjournment.

Title of Act:

An Act authorizing and empowering the Board of Regents of the Texas Technological College to levy a regular fixed student fee for the purpose of operating, maintaining and improving the Texas Technological Student Union Building at the Texas Technological College of Texas; fixing the amount of said fee; authorizing the Auditor of the Texas Technological College to collect the same, and providing the purpose for which said fee shall be used; placing the control of the fees in the hands of the Board of Directors of the Texas Technological Student Union; providing for a budget for the operation of said Union; and declaring an emergency. Acts 1953, 53rd Leg., p. 491, ch. 176.

CHAPTER EIGHT—UNIVERSITY AND AGRICULTURAL AND MECHANICAL COLLEGE FOR NEGROES

Art. 2643g. Buildings and improvements; Lamar State College of Technology and Texas Southern University

Educational institutions defined

Section 1. The term "educational institutions" as used in this Act shall mean Lamar State College of Technology, located at Beaumont, Texas, and Texas Southern University, located at Houston, Texas.

Building use fees

Sec. 2. The governing board of each of said educational institutions is hereby authorized for a period of twenty-four (24) years commencing September 1, 1955, to discontinue the collection of tuition and laboratory fees from students and, in lieu thereof, is hereby authorized to charge and collect from students using the hereinafter described buildings, special building-use fees for the use of libraries, hospitals, vocational shop buildings, laboratories and other buildings for extra-curricular activities or special purposes in the amounts as set out below; such amounts are shown to not exceed the combined total of laboratory fees and the statutory tuition fees:

Full time resident students, $30 per semester.

Part time resident students as follows:

11 semester hours	$28.50
10 semester hours	26.50
9 semester hours	24.50
8 semester hours	22.50
7 semester hours	18.50
6 semester hours	16.00
5 semester hours	14.00
4 semester hours	12.00
3 semester hours	10.00

Full time students who are not residents of the State of Texas, $80 per semester.

Part time non-resident students as follows:

11 semester hours	$76.50
10 semester hours	70.00
9 semester hours	63.50
8 semester hours	57.00
7 semester hours	48.00
6 semester hours	41.50
5 semester hours	35.00
4 semester hours	28.50
3 semester hours	22.00

Bonds or warrants

Sec. 3. The governing board of each of said educational institutions is authorized to pledge the anticipated income from such fees to secure bonds or warrants issued for the purpose of acquiring, constructing, repairing, and equipping buildings and other permanent improvements and for acquiring necessary sites therefor. Such bonds or warrants shall be issued in amounts to be determined by the respective governing boards of said educational institutions, shall bear interest not to exceed five per cent (5%) per annum, and shall mature serially or otherwise not to exceed twelve (12) years from the first day of September of 1955 and 1965 respectively; provided the authority to issue such bonds or warrants hereunder is expressly limited to a period of twenty-four (24) years from September 1, 1955. All bonds issued hereunder shall be examined and approved by the Attorney General of the State of Texas, and when so approved shall be incontestable; and all approved bonds shall be registered in the office of the Comptroller of Public Accounts of the State of Texas. Said bonds shall be sold upon such terms and conditions as the respective governing bodies shall determine; provided that they shall never be sold for less than their par value and accrued interest. It is provided that any indebtedness hereby authorized shall be payable only from the revenues derived from the use fees herein authorized, and said bonds or warrants shall never become a charge against the State of Texas nor any moneys appropriated by the Legislature from the General Fund.

Unobligated balances in special funds

Sec. 4. Subject to prior contractual pledges in favor of such bonds or warrants, the respective governing boards of said educational institutions may utilize any remaining unobligated balance in said special funds for the purpose of acquiring, constructing, repairing, and equipping such buildings or other permanent improvements and for purchasing necessary sites therefor, provided however that any purchase of land shall require approval by the Legislature; and this right shall extend for a period of two (2) years from the closing date of each twelve (12) year period.

Payment or retirement of bonds or warrants

Sec. 5. Before any such funds as are herein provided may be pledged against anticipated revenues for the second twelve (12) year period, all bonds or warrants issued during the first twelve (12) year period must be retired in full or due provision for such retirement must be made. Amounts collected as described herein during the second twelve (12) year

period may be used to retire bonds or warrants issued in the first twelve (12) year period, providing insufficient funds for that purpose were collected during said first twelve (12) year period.

Contracts in connection with issuance of bonds or warrants—negotiability

Sec. 6. The governing bodies of each of said educational institutions shall be authorized to enter into contracts in connection with the issuance of said bonds or warrants upon such terms and conditions as said respective boards shall deem to be advantageous to such educational institutions, respectively, provided that said contracts, bonds or warrants shall not contain provisions inconsistent with the terms of this Act. All bonds issued hereunder shall be negotiable instruments within the meaning of the Negotiable Instruments Law.[1]

1 Vernon's Ann.Civ.St. art. 5932 et seq.

Additional fees chargeable by other state supported colleges

Sec. 7. Nothing in this Act shall be interpreted to prevent the respective governing boards of said educational institutions from electing to charge such additional building-use fees as are now authorized or shall be authorized to be charged by the other State-supported colleges of Texas.

Increase of fees by legislative action

Sec. 8. In the event that at any time during the twenty-four (24) year period herein defined, tuition fees or laboratory fees in the State-supported colleges and universities of Texas are increased by legislative action, the respective governing boards of said educational institutions are authorized to charge tuition fees and laboratory fees, which shall be in addition to the special building-use fees herein authorized, providing such tuition and laboratory fees shall not exceed the amount of the increase over tuition fees as established by the Forty-third Legislature. (Acts, 1933, Chapter 196, page 596, listed in Vernon's Texas Statutes, 1948, as Article 2654c, page 773).

Law cumulative; exclusiveness

Sec. 9. This Act shall be cumulative of other Statutes and shall not repeal any existing Statutes; provided, that the issuance of bonds or warrants provided for in this Act shall be governed by the provisions of this Act which shall be exclusive and the provisions of other laws relating to the issuance of bonds, or warrants, or the collection or pledge of building-use fees, shall have no application to the issuance of bonds or warrants as herein provided.

Refunding bonds or warrants

Sec. 10. The respective governing boards of said institutions shall be authorized to issue refunding bonds or warrants for the purpose of refunding any bonds or warrants issued hereunder, but such refunding bonds shall not be made to mature beyond the twelve (12) year period in which the bonds or warrants being refunded were issued.

Partial invalidity

Sec. 11. If any word, phrase, clause, sentence, paragraph, Section or part of this Act shall be held by any Court to be invalid or unconstitutional for any reason, such holding shall not affect any other phrase, clause, sentence, paragraph, Section or part of this Act.

Limitation on fees

Sec. 12. Notwithstanding anything in this Act to the contrary, no fees shall be charged on a compulsory basis in excess of the statutory fees required in all other tax-supported colleges as a qualification for enrollment of students.

Suspension of act in case of legislative appropriation

Sec. 12a. Provided that should at any time during the twenty-four (24) year period mentioned in Section 2, the Legislature of the State of Texas make any appropriation for permanent improvements, then the provisions of this Act shall be suspended and terminated upon the effective date of such direct appropriation for permanent improvements. Acts 1953, 53rd Leg., p. 819, ch. 330.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER NINE—STATE TEACHERS' COLLEGES

Arts. 2650, 2652. Repealed. Acts 1953, 53rd Leg., p. 790, ch. 319, §§ 1, 2. Eff. June 5, 1953

CHAPTER NINE A—TUITION AND CONTROL OF FUNDS OF STATE INSTITUTIONS

Art. 2654b—1. Exemption from fees; war veterans; auxiliary members; members of armed forces and their children; holders of scholarships

Sec. 5. All of the foregoing provisions, conditions and benefits hereinabove in this Article provided for in Section 1 shall apply and accrue to the benefit of men and women of the armed forces of the United States of America during the present national emergency. As used herein the term "present national emergency" refers to the period of time beginning June 27, 1950, and ending on such date as shall be determined by Presidential Proclamation or Concurrent Resolution of the Congress for purposes of defining a "basic service period" under Public Law 550, Eighty-second Congress, Second Session, Chapter 875.[1] Provided, that the provisions of this Act shall not apply in the case of persons whose fees and tuition are being paid to the educational institution by the Veterans Administration under Public Law, 16, Seventy-eighth Congress, as amended,[2] and by Public Law 894, Eighty-first Congress, Second Session, as amended,[3] or Public Law 346, Seventy-eighth Congress, as amended,[4] as promulgated by the Congress of the United States; or to persons whose fees and tuition are paid directly to the veteran under Public Law 550, Eighty-second Congress,[5] as promulgated by the Congress of the United States; nor shall this provision of this Act apply in the case of persons dishonorably discharged from the service in which they were engaged. And, provided further, that the benefits and provisions of this Act shall also apply and inure to the benefit of the children of members of the armed

forces of the United States who were killed in action or died while in such service. Added Acts 1953, 53rd Leg., p. 75, ch. 55, § 1.

1 38 U.S.C.A. § 694 et seq., 38 U.S.C.A. § 901 et seq., 38 U.S.C.A. §§ 1011–1016.
2 38 U.S.C.A. § 701, 38 U.S.C.A. ch. 12 note.
3 38 U.S.C.A. § 701a.
4 38 U.S.C.A. § 693 et seq.
5 38 U.S.C.A. § 693 et seq.

Emergency. Effective April 6, 1953.

Section 2 of the amendatory Act of 1953 provided that the Act should be effective on date of passage.

Art. 2654c. Tuition rates in State institutions of collegiate rank

6. Officers, enlisted men and women, selectees or draftees of the Army, Army Reserve, National Guard, Air Force, Air Force Reserve, Navy, Naval Reserve, or the Marine Corps of the United States, who are stationed in Texas by assignment to duty within the borders of this State, shall be permitted to enroll themselves, their husband or wife as the case may be, and their children in State institutions of higher learning by paying the tuition fees and other fees or charges provided for regular residents of the State of Texas, without regard to the length of time such officers, enlisted men, selectees or draftees have been stationed on active duty within the State. As amended Acts 1953, 53rd Leg., p. 866, ch. 351, § 1.

Emergency. Effective June 8, 1953.

Section 2 of the Act of 1953 provided that partial invalidity should not affect any other portion of the Act. Section 3 read as follows: "Provided that the terms of this Act shall not be applicable to students, their husbands or wives as the case may be, who are in attendance at institutions of higher learning under contractual arrangements between said institutions and the Armed Forces of the United States, as described in Section 6 hereof, whereby the student's tuition is paid by the said Armed Forces."

CHAPTER NINE B—ADMINISTRATION OF PUBLIC FREE SCHOOLS

Article 2654—1. Central Education Agency

Texas School for the Blind

Sec. 4a. The Central Education Agency shall have exclusive jurisdiction and control over the Texas School for the Blind; and it shall be the duty of the Commissioner of Education to appoint a Superintendent for that school subject to approval of the State Board of Education. Such jurisdiction shall extend to the physical assets of said school, and appropriations made for the benefit of the school shall be administered and expended by the Education Agency. Added Acts 1953, 53rd Leg., p. 81, ch. 59, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER ELEVEN—COUNTY SCHOOLS

Art. 2688c. Counties of 30,000 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 thirty thousand (30,000) 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. As amended Acts 1953, 53rd Leg., p. 793, ch. 322, § 2.

Sec. 2. In counties coming under the provisions of this Act, the county judge shall receive and retain for his services in performing the duties of county superintendent of public instruction, in addition to all other compensation provided by law, such salary as the county board of school trustees of the respective counties may provide subject to the provisions of Article 3888, Revised Civil Statutes, 1925, as amended, whether the county judge is compensated on a fee or salary basis by the county. Such salary shall be paid in the manner and from funds as provided by law for the payment of ex-officio county superintendents. In the same manner and extent, and from the same funds, as provided in Articles 2701 and 3888, Revised Civil Statutes, 1925, as amended, the county board of school trustees in the respective counties may appoint an assistant to the ex-officio county superintendent, provide for his salary, and provide for the office and traveling expenses for the office of the ex-officio county superintendent. And the county judge, acting as county superintendent, shall perform all the duties in such counties as are not 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. As amended Acts 1951, 52nd Leg., p. 337, ch. 208, § 1; Acts 1953, 53rd Leg., p. 793, ch. 322, § 2.

Effective 90 days after May 27, 1953, date of adjournment.

Section 5 of the amendatory Act of 1953 provided that the provisions of the act should be cumulative of all other laws. Section 6 provided that the act should become operative on the first day of the month immediately succeeding the effective date thereof. Section 7 provided that partial invalidity should not affect the remainder of the act.

Art. 2696. 2760 Application to transfer

Any child lawfully enrolled in any district or independent district, may by order of the county superintendent, approved in writing, be transferred to the enrollment of any other district or independent district in the same county upon a written application of the parent or guardian or person having lawful control of such child, filed with the county superintendent, not later than June 1; provided that any district or independent district being dissatisfied with any transfers made by approval in writing of the county superintendent may appeal from such action to the county board of trustees of said county who shall have the right to annul and cancel the transfer allowed by the county superintendent.

The applicant shall state in said application that it is his bona fide intention to send said child to the school to which the transfer is asked.

Upon the certification of the transfer of any child, from one district to another district, by the county superintendent of the county in which said child resides at the time of the transfer, the State Department of Education shall authorize the State Treasurer to pay over directly the per capita apportionment, in independent districts of five hundred (500) or more scholastic population, to the district to which such child is transferred; and in all other districts, to county superintendents, to be paid by him to the respective districts to which such children are transferred;

provided, no transfer shall be made after June 1, no application for transfer shall be approved by the County Superintendent after June 1. As amended Acts 1953, 53rd Leg., p. 839, ch. 339, § 1.

Emergency. Effective June 8, 1953.

Art. 2698. Emergency transfers

In case of conditions resulting from public calamity in any section of the State such as serious floods, prolonged drought, or extraordinary border disturbances, resulting after the scholastic census has been taken, in such sudden change of the scholastic population of any county as would work a hardship in the support of the public free schools of the said county, the State apportionment of any child of school age may, on approval of the State Board of Education, be ordered by the State Commissioner of Education to be transferred to any other county or independent school district in any other county; provided, that the facts warranting such transfer shall be sent to the Commissioner of Education by the county or district board of trustees of schools to which transfer is to be made with a formal request for the said transfer before the first of June of the year in which such unusual conditions occur. No application for emergency transfers shall be granted unless the increase in scholastic population, as evidenced by a list of pupils within the scholastic age actually residing within the district not enumerated in said district, and filed with the State Department of Education is in excess of twenty per cent (20%) of the number of children assigned to said district; including regular transfers, as a result of the preceding census. The Commissioner of Education shall in such case notify the County Superintendent of both counties that final apportionment of school funds cannot be made under these circumstances before June 15. All arrangements for the said emergency transfers must be completed by the 15th of June following the unusual conditions causing the emergency. Children whose State funds are thus transferred to any county shall be included in the number of children for whom the county school apportionment of the said county is made. As amended Acts 1953, 53rd Leg., p. 839, ch. 339, § 2.

Art. 2701. 2763–4 Ex-officio superintendent

In each county having no school superintendent, the county judge shall be ex-officio county superintendent and shall perform all the duties required of the county superintendent in this chapter. He shall give bond in the sum of One Thousand ($1,000.00) Dollars, payable to and to be approved by the county board of school trustees of the respective counties and conditioned for the faithful performance of his duties. The county board shall name or appoint an assistant to the ex-officio county superintendent and shall provide for office and traveling of the ex-officio superintendent. The salary of the ex-officio superintendent of public instruction, the salary of the assistant ex-officio superintendent of public instruction and the office and traveling expenses for the office of the ex-officio superintendent in all counties in Texas shall be from and after September 1, 1947, paid from the State and County Available School Fund, and shall be received and retained in addition to all other compensation provided by law whether the county judge is compensated on a fee or salary basis. As amended Acts 1953, 53rd Leg., p. 793, ch. 322, § 3.

Effective 90 days after May 27, 1953, date of adjournment.

Section 5 of the Act of 1953 provided that the provisions of the act should be cumulative of all other laws. Section 6 provided that the act should become operative on the first day of the month immediately succeeding the effective date thereof. Section 7 provided that partial invalidity should not affect the remainder of the act.

CHAPTER THIRTEEN—SCHOOL DISTRICTS

1. COMMON SCHOOL DISTRICTS

Art. 2750a—2. Common school districts and rural high school districts; term of contracts with teachers

The Board of Trustees of any Rural High School District or County-line Rural High School District or Common School District in this State shall, at all times, have the right to enter into contracts employing a Superintendent, Principals, teachers and other Executive Officers in the schools of any such district for a term not to exceed three (3) years; provided, that all twelve-month contracts made by the Board of Trustees of any such Rural High School District or County-line Rural High School District or Common School District with any such employee herein mentioned shall begin on July 1st and end on June 30th of the year terminating the contract; provided, further, that all such contracts shall be approved by the County Superintendent of the county having jurisdiction and supervision of any such Rural High School District or Common School District. Acts 1953, 53rd Leg., p. 586, ch. 228, § 1.

Emergency. Effective May 27, 1953.

Section 2 of the Act of 1953 repealed all conflicting laws and parts of laws to the extent of such conflict only.

Art. 2756b. Independent school districts on military reservations

Abolishment of districts created hereunder and of authority granted hereunder, see art. 2756c.

Art. 2756c. Abolishment of certain districts; authority of State Board of Education to create districts and annex territory abolished

Section 1. Any school district created or established by the State Board of Education under the provisions of either Article 2666, Revised Civil Statutes of 1925, or as amended by Senate Bill No. 223, Acts of Forty-second Legislature, Regular Session, 1931, Chapter 172, or under

Senate Bill No. 274, Acts of Forty-fourth Legislature, Regular Session, 1935, Chapter 112 (Article 2756b) may be abolished by order of the State Board of Education upon written request signed by a majority of the members of the board of trustees of the school district. Notice of the order of abolishment in writing shall be given to the trustees of such independent school district and to the county board of school trustees of the county in which the district is located. From and after the effective date of this Act, the authority heretofore vested in the State Board of Education to create or establish school districts under any Statute of this State is hereby abolished.

Sec. 2. When any school district created under Article 2666, Revised Civil Statutes, 1925, or as amended by Senate Bill 223, Acts of Forty-second Legislature, Regular Session, supra, has been abolished as provided in Section 1 of this Act, the county board of school trustees of the county wherein the territory lies is hereby authorized and required to add such territory to a school district by which it is encompassed or to a district contiguous to the territory. The scholastic census taken for the district prior to its abolishment in that calendar year for the ensuing scholastic year shall be added to and constitute a part of the scholastic census of the district to which its territory has been added.

Sec. 3. Any authority heretofore vested in the State Board of Education under Senate Bill 274, Acts of Forty-fourth Legislature, Regular Session, as construed by the Texas Supreme Court in Central Education Agency v. Independent School District of the City of El Paso, No. A–3666, to annex or attach the territory of a military reservation to another school district is hereby abolished. Provided, however, that any territory of a military reservation heretofore attached, annexed or included in another school district by order of the State Board of Education and now recognized and treated by that school district as a part of its school district territory is hereby validated. Acts 1953, 53rd Leg., p. 834, ch. 337.

Emergency. Effective June 8, 1953.

3. INDEPENDENT DISTRICTS IN CITIES

Art. 2773. 2873 Sale of school property

Section 1. The Board of trustees of any independent school district, municipally controlled or otherwise, when deemed advisable, may make sale of any houses or lands held in trust for public free school purposes, and apply the proceeds to the purchase of more convenient and desirable school property, or the building or repairing of school houses or buildings, or place the proceeds to the credit of the local maintenance fund of the district. The president of the school board of the district shall execute his deed to the purchaser for the same, reciting the resolution of the board of trustees authorizing such sale.

Sec. 2. Nothing in this law shall have any effect to alter, amend, modify or repeal House Bill No. 854, Acts of Forty-seventh Legislature, Regular Session, 1941, Chapter 368.[1]

Sec. 3. Any and all sales of school houses, buildings or lands heretofore made by any independent school district in substantial compliance with the provisions of this Act and after same have been authorized by the trustees of the independent school district shall not be invalid by reason of any lack of authority to make and enter into such sales. As amended Acts 1953, 53rd Leg., p. 885, ch. 364, § 1.

1 Article 2773a.
Emergency. Effective June 8, 1953.

Art. 2773a. Independent school districts may sell, exchange or convey minerals; oil and gas leases; validation of sales or leases of minerals

Amendment not to affect this article, see article 2773.

Art. 2774c. Districts created by special law; alternative method of electing trustees

Any independent school district which was heretofore created by Special Law or Laws and continues to operate under such Special Laws at the time this Act becomes effective, may elect by a majority vote of the Board of Trustees of such independent school district to adopt a Board of Trustees as herein provided. Upon the adoption of this alternative method the incumbent School Board of Trustees shall publish at least ninety (90) days prior to the regular election date set by law, in a newspaper printed in the county in which such school district is situated, notice of the election and of the terms for which the trustees are to be elected. The seven (7) candidates receiving the largest number of votes at the first election, and the three (3) or two (2) candidates receiving the largest number of votes at all subsequent elections shall be entitled to serve as trustees hereunder. Those elected at the first election shall determine by lot the term for which they are to serve. The three (3) members drawing numbers one, two and three shall serve for one (1) year, the two (2) members drawing four and five shall serve for two (2) years and the two (2) members drawing numbers six and seven shall serve for three (3) years, or until their successors are elected and qualified; and regularly thereafter on the first Saturday in April of each year, three (3) trustees or two (2) trustees shall be elected for a term of three (3) years to succeed the trustees whose term shall at that time expire. The members of the board remaining after a vacancy shall fill the same for the unexpired term. Acts 1953, 53rd Leg., p. 76, ch. 56, § 1.

Emergency. Effective April 6, 1953.

Title of Act:

An Act authorizing any independent school district created and operating under a Special Law or Laws to adopt an alternative method for the election, term and number of trustees for such district; prescribing such alternative method; and declaring an emergency. Acts 1953, 53rd Leg., p. 76, ch. 56, § 1.

Art. 2775a. Election of trustees in counties of 800,000 population

In all independent school districts in counties having a population of eight hundred thousand (800,000) or more according to the last preceding Federal Census, created or organized as independent school districts under the General Laws, the position or office of each member of the Board of Trustees shall be identified by a number. Immediately upon the taking effect of this Act, the positions shall be numbered in the order in which the terms of office expire, the first two (2) or three (3) terms which next expire after the effective date of this Act to be numbered one (1) and two (2), or one (1), two (2) and three (3) as the case may be, and the next succeeding terms expiring to take the next larger numbers, until all of the positions have been numbered. Thereafter, any candidate offering himself for a position as Trustee of such district in any election shall in filing as a candidate indicate the number of the position for which he desires to run. His application for

a place on the ballot shall disclose the position number for which he is a candidate, or the name of the member he desires to oppose. Acts 1953, 53rd Leg., p. 112, ch. 76, § 1.

Emergency. Effective April 21, 1953.

Title of Act:

An Act to separate and identify the separate positions held by members of the Boards of Trustees of independent school districts created by General Law in counties having a population of eight hundred thousand (800,000) or more according to the last preceding Federal Census; and declaring an emergency. Acts 1953, 53rd Leg., p. 112, ch. 76.

Art. 2779b. Appointment of assessor-collector for three years; bond

Section 1. Boards of Trustees of Independent School Districts operating under the General Law are authorized to appoint an Assessor-Collector of Taxes for their respective school Districts for a term of office not to exceed three (3) years, to be determined by the Board of Trustees; providing that such Assessor-Collector shall give bond, to be executed by a surety company authorized to do business in the State of Texas, in an amount sufficient to adequately protect the funds of such school district in the hands of such Assessor-Collector, but in no event less than twice the largest amount collected at any one time in the preceding fiscal or calendar year, to be determined by the governing body of such School District.

Sec. 2. The amount of the bonds required of such Assessors-Collectors, as determined by such Boards of Trustees, are hereby in all things validated.

Sec. 3. This Act shall be cumulative of all other laws, General and Special, relating to the subject matter hereof. Acts 1953, 53rd Leg., p. 88, ch. 62.

Emergency. Effective April 21, 1953.

Title of Act:

An Act to provide for the appointment of the Assessor-Collector of Taxes for Independent School Districts operating under the General Law; prescribing the term of office of such Assessor-Collector and the amount of his bond to be executed by a surety company; validating bonds heretofore made; providing this Act shall be cumulative; and declaring an emergency. Acts 1953, 53rd Leg., p. 88, ch. 62.

Art. 2783d. Separation from municipal control of extended municipal school district having city of 290,000 or more

Powers conferred on district

Sec. 5. Except as herein denied or limited, all the powers conferred upon Independent School Districts and/or towns and villages incorporated for free school purposes only, by Title 49, of the Revised Civil Statutes of Texas, of 1925, and amendments thereto, including the right to annex contiguous territory for school purposes, and the right to levy taxes and issue bonds for school purposes, as provided by General Law, hereby are conferred upon any Independent School District separated from municipal control under the provisions of this Act; provided however, that the trustees of any Independent School District that may hereafter be separated from municipal control under the provisions of this Act, shall have the power to levy and collect an annual ad valorem tax not to exceed One and 25/100 ($1.25) Dollars on the One Hundred ($100.00) Dollars valuation of taxable property of the District, for the maintenance of the schools therein, and which may be used to pay the principal and interest on all bonds issued for school building purposes outstanding against the extended municipal school district at the time of separation from municipal control, and the principal of and interest on all bonds to be issued hereafter by any such Independent School District; provided that nothing

herein shall be construed as abrogating or in any manner repealing or affecting any maintenance tax and/or bond taxes heretofore voted, authorized and/or levied on taxable properties situated within the limits of the extended municipal school district; the maximum rate of school maintenance tax herein prescribed and the bond debt of any such District may be increased when authorized by a majority of the qualified property taxpaying voters, voting at an election called and held for such purpose, provided that such increase in said tax or bond debt shall never exceed the limits now or hereafter fixed by General Law for Independent School Districts of Texas incorporated for free school purposes under the provisions of Title 49 of the Revised Civil Statutes of Texas, and amendments thereto. In the event an election is held for the purpose of separating such school district from municipal control, and such election is in favor of the separation of the public schools from municipal control, then such Independent School District may levy and collect taxes as of January 1st, of the year in which the election was held, and thereafter levy and collect such taxes on an annual basis. As amended Acts 1953, 53rd Leg., p. 34, ch. 28, § 1.

Emergency. Effective March 3, 1953.
Section 2 of the Act of 1953 repealed conflicting laws or parts of laws.

Art. 2783f. Districts containing city of 575,000; estimate of receipts and expenditures; audit of accounts

In all Independent School Districts, whether created under the General Laws or by Special Act of the Legislature, having one hundred thousand (100,000) or more scholastics according to the last preceding scholastic census, and wherein there is situated either wholly or in part a city having a population of five hundred seventy-five thousand (575,000) or more inhabitants according to the last preceding Federal Census, it shall be the duty of the Business Manager under the direction of the Superintendent, prior to the first Monday in August of each year, to prepare a carefully classified estimate of receipts and expenditures for the ensuing scholastic year beginning on September 1st, and ending on August 31st, and submit the same to the Board of Trustees of any such school district for its approval. Within sixty (60) days after the 1st Monday in September of each year, the Board shall cause all accounts of the Board for the past year to be audited by a certified public accountant and shall publish the report of the findings of said accountant, as well as a statement prepared by the Board, showing the financial condition of said Board, and of each fund, with receipts and disbursements during the previous year, in some daily newspaper in the City of Houston, in the English language. Acts 1953, 53rd Leg., p. 709, ch. 272, § 1.

Emergency. Effective June 4, 1953.
Section 2 of the Act of 1953 repealed all laws and parts of laws, general and special, insofar as in conflict.

4. TAXES AND BONDS

Art. 2784g. Bond and maintenance tax rate in certain districts in county with population of 700,000 or more

Section 1. Any school district, whether created under General or Special Law, having all or the major portion of its territory situated within a county having a population of seven hundred thousand (700,000)

or more, according to the last preceding Federal Census, shall have the power, when authorized by an election held for that purpose, to levy, assess and collect an ad valorem tax to pay the current interest and maturities of bonds issued and to be issued by the district and for the further maintenance of the public free schools therein of not exceeding Two ($2.00) Dollars on the One Hundred ($100.00) Dollars valuation of all taxable property located in such school district or having its taxable situs therein.

Sec. 2. The amount of such tax for the payment of the current interest on and to provide a sinking fund sufficient to pay the principal of bonds issued in such districts shall never in any one year exceed One ($1.00) Dollar on the One Hundred ($100.00) Dollars valuation of taxable property; and the rate or amount of the maintenance tax and the bond tax together shall never in any one year exceed Two ($2.00) Dollars on the One Hundred ($100.00) Dollars valuation of taxable property; and if the rate of the bond tax, together with the rate of the maintenance tax authorized in such districts, shall at any time exceed Two ($2.00) Dollars on the One Hundred ($100.00) Dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and Two ($2.00) Dollars.

Sec. 3. No such tax shall be levied, collected, abrogated, diminished or increased, and no bonds shall be issued hereunder until such action has been authorized by a majority of the votes cast at an election held in the district for such purposes, at which none but property taxpaying qualified voters of such district who own taxable property therein and who have duly rendered it for taxation shall be entitled to vote. All such elections shall be held, and all of such taxes shall be levied, assessed and collected, by the same officers and in the same time, form and manner as now authorized and prescribed for other school districts generally in this State.

Sec. 4. The provisions of this Act shall not apply to any school district having assessed valuations for tax purposes in excess of One Billion ($1,000,000,000.00) Dollars.

Sec. 5. If any provision or section of this Act is held unconstitutional or invalid, such invalidity shall not affect the remaining provisions hereof, but all other parts shall remain in full force and effect. Acts 1953, 53rd Leg., p. 710, ch. 273.

Emergency. Effective June 4, 1953.

Art. 2785. Elections

Before an election is held to determine the proposition of the levy of such tax or the issuance of such bonds, a petition therefor, signed by twenty (20) or more, or a majority of those entitled to vote at such election, shall be presented to the County Judge of the county if for a common school district, and to the district trustees if for an independent school district. On presentation of said petition, said officer or officers shall order an election for such purpose, and order the sheriff to post notices thereof in three (3) places in the district for ten (10) days prior thereto, or if for an independent district, the secretary of said board of trustees shall post such notices. The petition, election order and notice of election shall in all cases either state the specific rate of tax to be voted on or that the rate shall not exceed the limit herein specified. All election orders and notices of elections shall state the time and place of holding the election. The ballots for maintenance tax elections in common school districts shall have written or printed thereon the words "For

school tax," and "Against school tax"; and for independent districts "For maintenance tax," and "Against maintenance tax". The Commissioners Court for common school districts, and the board of trustees for independent districts, shall canvass the returns and declare the result of all elections hereunder; and said elections shall be held and conducted as provided by law for general elections, except as provided herein. As amended Acts 1953, 53rd Leg., p. 487, ch. 173, § 1.

Emergency. Effective May 19, 1953.

Art. 2786d. Investment of bond proceeds in bond and obligations of the United States

From and after the effective date of this Act any school district within the State, which has or may have on hand any sums of money which are proceeds received from the issue and sale of the bonds of any such school district either before or after the effective date of this Act, which proceeds are not immediately needed for the purposes for which such bonds were issued and sold, may, upon order of the board of trustees of such school district, invest the proceeds of such bonds in bonds of the United States of America or in other obligations of the United States of America as may be determined by the board of trustees of the school district, but such bonds or other obligations of the United States of America shall be of a type which cannot be sold or redeemed for an amount less than the sum invested therein by such school district; and when such sums so invested by a school district are needed for the purposes for which the bonds of the school district were originally authorized, issued and sold the bonds or other obligations of the United States of America in which such sums have been invested shall be sold or redeemed and the proceeds thereof shall be used for the purposes for which the bonds of the school district were originally authorized, issued and sold. Acts 1953, 53rd Leg., p. 464, ch. 150, § 1.

Emergency. Effective May 14, 1953.

Section 2 of the Act of 1953 repealed conflicting laws and parts of laws to the extent of the conflict. Section 3 provided that partial invalidity should not affect other parts of the Act but that the Act should be deemed severable.

Title of Act:

An Act authorizing school districts to invest proceeds from sale of school district bonds in bonds or other obligations of the United States of America until needed for purposes for which school district bonds were originally authorized; repealing conflicting laws; providing partial invalidity shall not affect remainder of Act; and declaring an emergency. Acts 1953, 53rd Leg., p. 464, ch. 150.

Art. 2786e. Interest bearing time warrants

Purposes; issuance; payment

Section 1. Any school district in the State of Texas in need of funds to repair and renovate school buildings; purchase school buildings and school equipment; to equip school properties with necessary heating, water, sanitation, lunchroom and electric facilities; and said school district is financially unable, out of current available funds, to make such repairs and renovations of school buildings; purchase school buildings; purchase school equipment; to equip school properties with necessary heating, water, sanitation, lunchroom and electric facilities; may, subject to the provisions hereof, issue interest-bearing time warrants in amounts sufficient to make such purchase, and improvements any law to the contrary notwithstanding. Such warrants shall mature in serial installments of not more than five (5) years from their date of issue, and to bear interest at a rate not to exceed six per centum (6%) per annum. Such warrants shall upon maturity be payable out of any available funds of

such school district in the order of their maturity dates. Any such interest-bearing time warrants so issued may be issued and sold by such district for not less than their face value, and the proceeds thereof used to provide the funds required for such repairs and renovations of school buildings, purchase of such school buildings and school equipment, pay for the equipping of school properties with necessary heating, water, sanitation, lunchroom and electric facilities. Such warrants shall be entitled to first and prior payment out of any available funds of such district as they become due. Included in such purposes is the payment of any amounts owed by said school districts, which indebtedness was incurred in carrying out any of such purposes.

Approval of issuance

Sec. 2. No such interest-bearing time warrants shall be issued or sold by a common school district, rural high school district, or an independent school district of less than one hundred and fifty (150) scholastics until the same shall have been approved by the County Board of School Trustees; and said Board shall, upon application of such school district, inquire into the financial conditions and needs of such district, and shall not approve the issuance of such interest-bearing time warrants unless in its opinion said district is in need of such repair and renovation of school building, and school equipment and to equip school properties with necessary heating, water, sanitation, lunchroom and electric facilities, and will be able with the resources in prospect to liquidate said warrants at their maturity.

Amount of warrants

Sec. 3. No school district in the State of Texas shall issue such interest-bearing time warrants in excess of one per cent (1%) of the assessed valuation of the district, for the year in which such interest-bearing time warrants are issued; nor shall the payment of such interest-bearing time warrants in any one year exceed the anticipated surplus income of the district for the year in which the warrants are issued, based on the budget of the district for said year, such anticipated income to be computed as follows:

The entire expected income of such school district from every source for the year in which such interest-bearing time warrants are issued, less teachers' salaries, bus aid included in the foundation fund, and that part of the local maintenance tax earmarked for salaries and known in the Gilmer-Aiken Law as the economic index or fund assignment. The anticipated income computation as herein defined shall be exclusive of all bond taxes.

No school district shall have outstanding at any one time warrants totaling in excess of Twenty-five Thousand Dollars ($25,000) under the provisions of this Act.

Validation of issuance

Sec. 4. In every instance wherein interest-bearing time warrants or other evidence of indebtedness have been issued by school districts within the State of Texas for any of the purposes herein provided for, the act of the Board of Trustees, and/or governing board of such district in issuing such interest-bearing time warrants are each and all hereby expressly validated. The indebtedness thus attempted to be created by such action is hereby declared to be the indebtedness of such district and shall be paid out of available funds as herein provided.

Use of delinquent taxes to pay warrants

Sec. 5. Whenever any such interest-bearing time warrants have been issued under this Act, and so long as any of them may be outstanding the officer in charge of the collection of delinquent taxes shall pay the same to legal depository of the district, to be deposited and held in a special fund for the payment of such interest-bearing time warrants, and except as herein otherwise provided, no part thereof shall be applied or used for any other purpose.

Interest and penalties; cancellation, waiver, release or reduction of delinquent taxes

Sec. 6. Interest and penalties on delinquent taxes shall be deemed a part of such taxes for the purpose of this Act. Should any delinquent taxes, including interest and penalties, be cancelled, waived, released or reduced either by such school district or in any other way, with or without its consent, the amount of the loss so sustained shall be paid by the district to the special fund provided for herein out of funds not otherwise pledged to such special fund.

Liens and encumbrances

Sec. 7. All school districts issuing interest-bearing time warrants shall have the power to fix lien on and encumber and mortgage any and all property purchased with the proceeds of such warrants, and to fix a lien on and encumber any property, including teacherages owned by the district to secure the payment of legally incurred obligations. Provided, however, there shall never be a valid lien authorized or fixed on any school building wherein actual classroom instruction of pupils attending such school is being carried on or conducted.

Interest bearing time warrant defined

Sec. 8. The word "interest-bearing time Warrant" as used in this Act means promissory note, interest-bearing time warrant, obligation or other evidence of indebtedness issued under this Act.

Taxes to pay bonds not included

Sec. 9. Taxes levied in any year to pay principal and interest of bonds and which taxes subsequently become delinquent for the purpose of this Act, shall not be included in the term taxes or revenues or delinquent taxes as herein used. Acts 1953, 53rd Leg., p. 1038, ch. 427.

Emergency. Effective June 13, 1953.

Section 10 of the Act of 1953 repealed conflicting laws and parts of laws. Section 11 provided that partial invalidity should not affect the validity of the remaining portions of the Act.

Art. 2786f. Time warrants; issuance by districts in certain counties

This Act shall be applicable to all independent school districts, common school districts, and rural high school districts in counties containing not more than one (1) independent school district, not more than one (1) rural high school district, and not less than four (4) common school districts. For the payment of vouchers or scrip warrants issued on behalf of such school districts for the payment of current operating expenses, transportation expenses, or building purposes, and all other vouchers and scrip warrants payable from funds other than the proceeds of bonds, the board of trustees of independent school districts and rural high school districts and the Commissioners Court for and on behalf of

common school districts may issue time warrants. The order or orders authorizing such time warrants shall provide for the assessment, levy, and collection of a tax for the payment of the interest and principal requirements of such time warrants. Such time warrants may bear interest at a rate not to exceed five per cent (5%) per annum, and such interest may or may not be represented by coupons attached thereto. Such warrants shall mature serially in not to exceed thirty (30) years from their date or dates. As to independent school districts and rural high school districts, such warrants shall be signed by the president of the board of trustees and countersigned by the secretary of such board. As to common school districts, such warrants shall be signed by the county judge and countersigned by the county clerk. The facsimile signatures of such officers may be lithographed or printed on any interest coupons attached thereto. Such time warrants shall be sold for not less than par and accrued interest, and the proceeds shall be used to pay the scrip warrants or vouchers as provided in this Act. Provided, that no independent school district shall ever in any one calendar year issue time warrants under the provisions of this Act in an aggregate amount in excess of Ten Thousand Dollars ($10,000). Acts 1953, 53rd Leg., p. 1046, ch. 433, § 1.

Emergency. Effective June 13, 1953.

Title of Act:

An Act authorizing the issuance of time warrants for and on behalf of certain school districts and containing provisions relating thereto; and declaring an emergency. Acts 1953, 53rd Leg., p. 1046, ch. 433.

Art. 2802f—3. Pledge of delinquent taxes as security for loan

The board of trustees of any school district of this State is hereby authorized to pledge its delinquent school taxes levied for local maintenance purposes for specific school years as security for a loan, and such delinquent taxes pledged shall be applied against the principal and interest of the loan as they are collected. Provided, there shall be no pledging of delinquent taxes levied for school bonds for purposes herein set out. Funds secured through such loans may be employed for any legal maintenance expenditure or purpose of the school district. Provided further, that such loans may bear interest at a rate not to exceed six (6%) per cent per annum. Acts 1953, 53rd Leg., p. 446, ch. 132, § 1.

Emergency. Effective May 14, 1953.

Title of Act:

An Act authorizing the board of trustees of any school district to pledge delinquent school taxes levied for local maintenance purposes as security for a loan and to apply when collected such taxes pledged to the payment of the loan and interest; prescribing the purposes to which funds realized from such loans may be put; providing such loans may bear interest at a rate not to exceed six (6%) per cent per annum; and declaring an emergency. Acts 1953, 53rd Leg., p. 446, ch. 132.

5. ADDITIONS AND CONSOLIDATIONS

Art. 2804a. Counties of 165,000; annexed territory not part of school district; proceedings for detachment and annexation

Whenever the limits of any incorporated city or town within this State are extended or enlarged to include additional territory, or when any territory is annexed to any incorporated city or town, such extension or enlargement of the limits of such incorporated city or town or such annexation of territory to such incorporated city or town shall in no event have the effect of adding any territory included in such incorporated city or town by such extension, enlargement or annexation to any school district located wholly or partially within any county having a population of one hundred and sixty-five thousand (165,000) or more in-

habitants according to the last preceding Federal Census, the boundaries of which such school districts coincide, in whole or in part, with any such incorporated city or town, and no such territory so included in or annexed to any such city or town shall automatically become a part of any such school district located wholly or partially within a county having a population of one hundred and sixty-five thousand (165,000) or more inhabitants according to the last preceding Federal Census by reason of such inclusion or annexation of any such territory in or to any incorporated city or town; provided, however, that after such territory has been included in or annexed to any such incorporated city or town, any such territory may be detached from the school district in which such territory is situated and may be annexed to any school district having a boundary line contiguous to such territory by the County School Trustees of the county or counties in which all affected school districts are situated in whole or in part, upon the approval by a majority of the School Trustees of each school district affected, acting under the provisions of Chapter 47, Acts of the Forty-first Legislature, First Called Session, 1929, now codified as Article 2742f of Vernon's Civil Statutes; and provided further, that the term "school district" as used in this Act shall include any and every type of school district regardless of how created or how operating. Acts 1953, 53rd Leg., p. 40, ch. 32, § 1.

Emergency. Effective March 11, 1953.

Section 2 of the Act of 1953 repealed conflicting laws or parts of laws, general or special, to the extent of the conflict only.

Title of Act:

An Act providing that the annexation of additional territory or the extension or enlargement of the limits of any incorporated city or town shall not have the effect of adding any territory included in such city or town by such extension, enlargement or annexation to any school district located wholly or partially within any county with a population of one hundred and sixty-five thousand (165,000) or more inhabitants, the boundaries of which such school district coincide, wholly or partially, with such incorporated city or town; providing after such annexation of territory to any incorporated city or town such territory may be detached from the school district and may be annexed to any school district having certain boundary lines and having the approval of a majority of the School Trustees of each affected school district; defining the word "school district" as used in the Act; repealing all laws or parts of laws in conflict; and declaring an emergency. Acts 1953, 53rd Leg., p. 40, ch. 32.

6. DISTRICTS IN LARGE COUNTIES

Art. 2815g—47. Validation of districts; acts; elections; taxes

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 nowise invalidate any of such proceedings or any bonds so voted or issued by such District. All revenue bonds issued and outstanding, and all revenue bonds authorized but not yet issued for and on behalf of School Districts and all proceedings relating thereto are hereby in all things validated. All acts of the boards of trustees of School Districts or the governing bodies of municipalities or the County Judges or the Commissioners Courts in entering into leases of real estate or other property to such School Districts and all such leases are hereby in all things validated; and all tax or revenue bonds issued or authorized to be issued to construct, erect or purchase improvements for such School Districts on such leased real estate are hereby in all things validated.

Sec. 2. All School Districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax, or not to exceed the rate of tax as heretofore authorized or attempted to be authorized by any act of the District or by any election of the taxpaying voters of said Districts or by any Act whether General or Special, by the Legislature, or as is now being levied, assessed, and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said Districts, or by any Act, whether General or Special, of the Legislature.

Sec. 3. 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, or to any District involved in proceedings now pending before the State Board of Education in which proceedings 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 1953, 53rd Leg., p. 14, ch. 9.

Emergency. Effective Feb. 23, 1953.

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 involved in certain proceedings now pending before the State Board of Education, or to Districts which may have been established and which later returned to original status; providing a savings clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 14, ch. 9.

CHAPTER FOURTEEN—SCHOLASTIC CENSUS

Art. 2816. 2774 Taking census

The county superintendent and the board of trustees of the independent school districts, on the first day of each November or as soon as practicable thereafter, shall appoint one of the trustees of each school district, or some other qualified person, to take the scholastic census, who shall be known as the census trustee of the district. The census trustee, between the first day of January and the first day of February after his appointment, shall take a census of all children that will be over six and under eighteen years of age on the first day of the following September, and who are residents of the school district on said first day of February. In taking the said census he shall visit each home, residence, habitation and place of abode, and shall by actual observation and interrogation, enumerate the children thereof in the following manner: He shall use for each parent, or guardian or person having control of any such children, a prescribed form showing the name, color and nationality of the person rendering such children, the name and number of the school district in which the children reside, and the name, sex and date of birth of each such child of which he is a parent or guardian, or of which he has control. The census trustees shall require such forms to be subscribed and sworn to on the date of enumeration by the person rendering the children, and he is authorized to administer oaths for this purpose. When the census trustee visits any home or house or place of abode of a family, and fails to find either the parent or any person having legal control, he shall leave the prescribed census blank for the use of parents at such home or place of abode, with a note to the parent or guardian having legal control of such child or children, requiring that the form be filled out, signed and sworn to, and that the blank, when so filled out, shall be delivered by the parent or person having legal control of the child or children, requiring that the form be filled out, signed and sworn to, and that the blank, when so filled out, shall be delivered by the parent or person having legal control of the child or children to the census trustee. As amended Acts 1953, 53rd Leg., p. 835, ch. 338, § 1.

Emergency. Effective June 8, 1953.

Art. 2816a. Supplemental scholastic census; unusual increase in population from camps, reservations or building projects

Section 1. It is hereby provided that in cases of unusual increase of scholastic population of any school district caused by the location therein or adjacent thereto of camps, reservations, building or dam projects sponsored by Federal Government or State Government ownership and whose creation results in an unusual increase in scholastic population in a school district upon the certified request of the county superintendent of the county in which such an unusual increase exists, the State Commissioner of Education, at district expense, shall require a supplemental scholastic census to be taken of the district involved. In the event that the census herein authorized shows a substantial increase in scholastic population, the Commissioner of Education may approve a supplemental census roll, adding the names of additional eligible scholastics to the rolls of the district. Said supplement of the scholastic census roll shall be considered a part of the original census as if it were taken in the last preceding month of January of the school year and the scholastic apportionment shall be paid in accordance with said scholastic population. Provided further that such supplemental census shall be taken not later than January 15 of any fiscal year, and shall include only such scholastics that are enrolled and are in actual attendance. No adjustment in scholastic apportionment in a district entitled thereto shall be in an amount more than that necessary for the additional expenditures needed to care for the needs of such districts and which shall be approved by the State Department of Education.

Sec. 2. Only one supplemental census annually in any one district shall be authorized by the Commissioner of Education. As amended Acts 1953, 53rd Leg., p. 835, ch. 338, § 2.

Art. 2817. 2775 Duty of census trustee

Only children of the same family shall be listed on one form; and, if one person has under his control children of different family name, he shall use a separate form for each family name. The census trustee shall arrange the forms for white and colored children separately, in alphabetical order, according to the family name of the children reported thereon. He shall also make, on a prescribed form, separate census rolls for the white and colored children of his district, showing the name, age, sex and color of each child, and the name of the parent, guardian or person having control of said child, by whom it is reported. He shall also make a summary of his rolls showing the number of such children of each race of scholastic age. He shall make oath to all his rolls and summaries, and to the faithful and accurate discharge of his duties, and deliver said rolls, with the forms arranged in alphabetical order, to the county superintendent on or before April first next after his appointment. As amended Acts 1953, 53rd Leg., p. 835, ch. 338, § 3.

Art. 2817a. Oath to rolls and summaries and delivery to county superintendent

Any person who is required to make a summary of the scholastic census rolls showing the number of children of each race that will be included in the scholastic census on the first day of next September shall make oath to his rolls and summaries and to the faithful and actual discharge of his duties and deliver the rolls, together with the forms ar-

ranged in alphabetical order, to the county superintendent on or before March 1 next after his appointment. As amended Acts 1953, 53rd Leg., p. 835, ch. 338, § 4.

Art. 2819. 2776 Duty of county superintendent

The rolls and summaries of the census trustee shall be preserved by the county superintendent in his office for three years after they are filed. The county superintendent shall make, on prescribed forms, separate consolidated rolls for the white and colored children of his county, showing the name, age and sex of each, together with the number of the district in which it lives, and the name of the parent or guardian, arranging the names of the children according to the alphabetical order of their family names. In making these consolidated rolls, he shall scrutinize carefully the work of the census trustees, and shall have power to summon witnesses, take affidavits and correct any errors he may find in any census trustee's roll, and he shall carefully exclude all duplicates. If he deems it necessary he may reject any roll, and appoint another census trustee to take the census of the district, in which case he shall not approve the warrant to pay the census trustee whose work has been rejected. When the county superintendent has prepared his consolidated census rolls, one for each race, he shall make a duplicate of each, and he shall make affidavit to the correctness of both originals and duplicates. The originals he shall, on or before May first, forward to the State Commissioner of Education, and the duplicates shall be filed with the county clerk and become permanent records of his office. The county superintendent shall forward with his consolidated rolls an abstract on the prescribed form, under oath, showing the number of children of each race, of the different years of school age, and the total number of children of each race, and the total of both races in his county. In making his consolidated rolls and in investigating the work of any census trustee, the county superintendent shall refer to the forms and rolls of previous years, when necessary, and they shall be carefully preserved for this purpose. As amended Acts 1953, 53rd Leg., p. 835, ch. 338, § 5.

Art. 2820. 2777 Duty of State Commissioner of Education

The State Commissioner of Education shall have authority to investigate the census of any county, to correct errors, and in extreme cases where he believes gross errors have occurred or that fraud has been practiced, he may, with the approval of the State Board, reject any county roll and require the census of the county to be retaken. As amended Acts 1953, 53rd Leg., p. 835, ch. 338, § 6.

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 Commissioner of Education, 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 Commissioner of Education and the State Board to be retaken. As amended Acts 1953, 53rd Leg., p. 835, ch. 338, § 7.

Art. 2822a. Supplemental census in districts having unusual population increase because of proximity of National Defense Agencies

Section 1. It is hereby provided that in cases of an unusual increase of the scholastic population of any school district, caused by the location therein, or adjacent thereto, or whose scholastic population is materially increased by, any of the National Defense Agencies, such as army camps, naval training stations, shipyards, flying fields, munition works, or any other agency whose purpose is to further the National Defense, or by the production of oil, gas or other natural resources necessary in the program of National Defense, and whose creation results in an unusual increase in the scholastic population of any school district, upon the certified request of the county superintendent of the county in which such an unusual increase exists, the State Commissioner of Education shall require a supplemental scholastic census to be taken, immediately, of the district involved. In the event that the census herein authorized shows a substantial increase in the scholastic population, the Commissioner of Education shall approve a supplemental census roll, adding the names of the additional eligible scholastics to the rolls of the District. Said supplement of the scholastic census roll shall be considered a part of the original census as if it were taken in the last preceding month of January, and the scholastic apportionment shall be paid in accordance with said scholastic population. Provided, further, that such supplemental census shall be taken not later than January 15th of any fiscal year, and no adjustment of scholastic apportionment to any District entitled thereto shall be in an amount more than that necessary for the additional expenditures needed to care for the needs of such districts, and which shall be approved by the State Department of Education.

Sec. 2. The Commissioner of Education is not authorized by this Act to provide for more than one supplemental scholastic census annually in any one district. As amended Acts 1953, 53rd Leg., p. 835, ch. 338, § 8.

CHAPTER FIFTEEN—SCHOOL FUNDS

Art. 2835c. Defaulted obligations; refunding or refinancing

Section 1. At any time that there are obligations due the State Available School Fund which obligations have been in default in whole or in part for a continuous period of at least fifteen (15) years, the obligor is authorized upon approval of the State Board of Education to refinance or refund such defaulted obligations by the issuance of refunding bonds and the State Board is authorized to accept such refunding bonds in lieu of such defaulted obligations. Such refunding bonds shall mature serially in not exceeding forty (40) years from the date thereof and shall bear interest at such rate or rates as may be determined by said State Board to be to the best interest of the State Available School Fund; provided, that the principal amount of refunding bonds accepted in lieu of or in exchange for such defaulted obligations shall be in an amount not less than the total amount of all such obligations then in default and due said

State Available School Fund. "Defaulted obligations," as used herein, shall include delinquent interest whether represented by coupons or not, interest on delinquent interest, or other Form of obligation due said State Available School Fund.

The obligor and the State Board of Education shall not have the right to exercise the authority conferred by this Section 1 so long as any such obligor shall be in default in the payment of the principal of any bonds owned by the State Permanent School Fund.

Sec. 2. The State Board of Education in its discretion is authorized to accept refunding bonds in lieu of either matured or unmatured bonds held for the benefit of the State Permanent School Fund, provided that the rate of interest on the new refunding bonds is at the same rate as that of the bonds being refunded.

Sec. 3. Upon order of the State Board of Education, the State Treasurer shall exchange any obligations held by him, which are being refunded under the terms of this Act, for the new refunding bonds.

Sec. 4. This Act shall not repeal or affect any other legislation or Acts pertaining to the same or similar subjects, but shall be cumulative of all other legislation or Acts on the same or similar subjects. Acts 1953, 53rd Leg., p. 881, ch. 360.

Emergency. Effective June 8, 1953.

Section 5 of the Act of 1953 provided that partial invalidity should not affect the remainder of the act or application to other persons or circumstances.

Title of Act:

An Act authorizing the refunding of defaulted obligations owned by the State Available School Fund, provided such obligations shall have been continuously in default for at least fifteen (15) years; prescribing the conditions and limitations on the issuance, acceptance and exchange of refunding bonds issued in lieu of such defaulted obligations; providing that refunding bonds bearing the same rate of interest may be accepted in lieu of matured or unmatured bonds held for the State Permanent School Fund; providing a severability clause; making this Act cumulative of all other laws on the subject; enacting other provisions relating to the subject; and declaring an emergency. Acts 1953, 53rd Leg., p. 881, ch. 360.

CHAPTER SIXTEEN—FREE TEXTBOOKS

Oath of authors of textbooks as to membership in subversive organizations, see art. 6252—7.

Art. 2851. Contractors bond

The bidder to whom any contract may have been awarded shall execute a good and sufficient bond payable to the State of Texas in the sum of not less than Two Thousand, Five Hundred Dollars ($2,500) for each textbook adopted by the State Board of Education for use in the public free schools of the State; provided, that the State Board of Education is hereby given authority to require bond in such further and additional sums as it may deem advisable, said bond to be approved by the State Board of Education; such bond to be conditioned that the contractor shall faithfully perform all the conditions of the contract; the contract and bond shall be prepared by the Attorney General, and be payable in Travis County, Texas, and shall be deposited in the office of the Secretary of State. For the purpose of securing satisfactory bond a series of pamphlet writing books shall be considered as one textbook, and a series of pamphlet drawing books shall be considered as one textbook. The bond shall not be exhausted by a single recovery thereon, but may be sued upon from time to time until the full amount thereof is recovered;

and the State Board of Education may, at any time, on twenty (20) days' notice, require a new bond to be given and in the event the contractor shall fail to furnish such new bond the contract of such contractor may, at the option of the State Board of Education, be forfeited. As amended Acts 1953, 53rd Leg., p. 572, ch. 215, § 2.

Emergency. Effective May 27, 1953.

Art. 2859. Repealed. Acts 1953, 53rd Leg., p. 581, ch. 224, § 2. Eff. May 27, 1953

Art. 2874. Trustees bond

One or more members or employees of each district board of trustees shall enter into bond in the sum of fifteen per cent (15%) of the value of the books consigned to them by the State, payable in Austin, Texas, to the Governor of the State of Texas, or his successors in office, said bond to be approved by the County Judge of the county in which the school is situated, and by the State Commissioner of Education and deposited with the State Commissioner, conditioned on the faithful discharge of his duties under his employment and under this Act, and that he or they will faithfully account for all books coming into his or their possession and for all moneys received from the sale thereof. All moneys accruing from the forfeiture of the bonds shall be deposited by the Governor to the credit of the State Textbook Fund. As amended Acts 1953, 53rd Leg., p. 572, ch. 215, § 1.

Emergency. Effective May 27, 1953.

Art. 2876c. Printed labels

All books shall have a printed label on one inside cover on which label shall be printed a statement that the book is the property of the State. Each school shall number all books, placing the number on such label. All teachers shall keep a record of the number of all books issued to each pupil. All books must be covered by the pupil under the direction of the teacher. Books must be returned to the teacher at the close of the session, or when the pupil withdraws from school. Each pupil, or its parent or guardian, shall be responsible to the teacher for all books not returned by the pupil, and said pupil not returning all books delivered to him or her shall not be entitled to the benefits of this Act until books are paid for by said parent or guardian.

Local boards of trustees shall make provision for the fumigation of books before the reissue of the books. Covers of all books shall be removed before reissue, and the pupil to whom the books are issued shall replace cover under the direction of the teacher. As amended Acts 1953, 53rd Leg., p. 581, ch. 224, § 1.

Emergency. Effective May 27, 1953.

Section 2 of the amendatory Act of 1953 repealed article 2859.

CHAPTER SEVENTEEN—TEACHERS' CERTIFICATES AND SALARIES

Art. 2877. State Board of Examiners for Teacher Education

Section 1. The State Commissioner of Education shall be authorized to appoint a State Board of Examiners for Teacher Education consisting of not less than three (3) competent teachers, living in the State, to serve

during his pleasure, and he may increase or decrease the number, as varying conditions may make necessary. It is further provided that it shall be the additive and cumulative duty of every person who is a State employee, teacher, professor, or officer of any of our State institutions of higher learning and drawing a State warrant for salary as such, to serve as an ex officio member of the State Board of Examiners for Teacher Education when called upon by the State Commissioner of Education for the performance of such ex officio duties.

Sec. 2. The State Board of Examiners shall hereafter be designated, State Board of Examiners for Teacher Education.

Sec. 3. Whenever the name State Board of Examiners or any reference thereto appears in the Statutes of Texas, or in any amendments thereto, or in any of the Acts of any Legislature, such name and such reference shall hereafter mean and apply to the State Board of Examiners for Teacher Education in order to conform to the new name of said Board as provided in Section 2 hereof.

Sec. 4. Severability. If any part, Section, Subsection, paragraph, sentence, clause, phrase or word contained in this Act shall be held, for any reason, to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity. As amended Acts 1953, 53rd Leg., p. 822, ch. 331, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

Art. 2919e. Texas Commission on Higher Education

CREATION OF COMMISSION

Section 1. There is hereby established the Texas Commission on Higher Education to be composed of thirty-one members appointed as hereinafter provided, and with the duties and powers enumerated below

Composition of Membership

Sec. 2. Membership shall be comprised of the following:

(1) The Chairman or Vice-Chairman of each of the Governing Boards of the State Institutions of Higher Education; and

(2) Ten outstanding citizens to be appointed by the Governor, none of whom shall have any official connection with a state-supported college or university; and

(3) Five members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

(4) Five members of the Senate, to be appointed by the Lieutenant Governor; and

(5) The Commissioner of Education; and

(6) One member of the State Board of Education, to be appointed by the Governor.

The Council of College Presidents of state-supported institutions is hereby designated as an advisory committee to the Commission on Higher Education.

It is the intent of the Legislature that all Commission members be representative of higher education needs and programs in the entire state, and not merely of one particular institution of Higher Education.

The terms of office for members of the Commission shall be from the date of their respective appointments until July 1, 1955.

Compensation

Sec. 3. Members of the Commission shall serve without pay, but shall be reimbursed for their actual expenses incurred in attending to the work of the Commission. For the purpose of that reimbursement, members of the Commission appointed from governing boards of state institutions of higher education shall be deemed to have been given additional duties as members of such governing boards; members who are legislators shall be deemed as having been given additional duties as members of the Legislature; the Commissioner of Education shall be deemed as having been given additional duties as Commissioner of Education; and the member of the Commission who is a member of the State Board of Education shall be deemed as having been given additional duties as a member of the State Board of Education.

For the payment of the necessary expenses of the Commission, including salaries, wages, professional services, travel, and all other necessary expenses, there is hereby appropriated from the General Revenue Fund the sum of Ten Thousand ($10,000.00) Dollars for the fiscal year beginning September 1, 1953, and any unexpended balance of such amount for the fiscal year beginning September 1, 1954; provided, however, that disbursements from this appropriation shall be made only on warrants issued by the State Comptroller based upon accounts approved by the Chairman of the Texas Commission on Higher Education.

Organization of the Commission

Sec. 4. The first meeting of the Commission shall be called by the Governor immediately after a majority of the members has qualified by accepting the appointment. A majority of the total authorized membership of the Commission shall constitute a quorum. The Commission shall elect a chairman and a vice-chairman, and is authorized to establish from within or without its membership such committees as it may deem necessary for efficiently performing its duties.

Duties and Authority of the Commission

Sec. 5. The Commission shall study the state's present arrangements for higher education with a view to recommending to the Legislature essential steps for achieving a co-ordinated system of higher education, giving attention to any factors it considers pertinent but including the following:

a. A co-ordinated state system of higher education, and administrative means for adapting that system to the changing needs of the state in future decades;

b. The specific role and scope of each of the state's colleges and universities, including the academic fields of instruction, the area of specialization, and the types of degrees to be offered by each;

c. The adequacy of the present number and location of colleges;

d. Criteria and procedures for establishing any additional state institutions of higher education, if any, when the need should arise;

e. Methods of financial and student accounting used by institutions of higher education, including recommended definitions of terms for the guidance of all concerned;

f. A program for teacher education and certification;

g. The financial requirement for a first-class system of higher education in Texas, including construction and maintenance of physical facilities and practical methods by which this requirement could be met;

h. Methods for assuring compliance with any policies that might be enacted as a result of recommendations made by the Commission.

The above enumeration does not restrict in any way the Commission's latitude in its study, or of topics on which it may desire to make recommendations.

The Commission also shall make a report by not later than November 1, 1954, to the Governor and to each member of the Legislature on the results of its study, together with its recommendations.

The Commission shall make rules governing its procedure and the time and place of its meetings.

Any information or records in any college or university to which the state contributes support shall be made available to the Commission at its request. Any information or records relative to such colleges and universities in any state office or agency shall be made available to the Commission at its request. Any state office or agency, including the staffs of the universities and colleges concerned, when requested by the Commission, shall assist the Commission in its work.

Staff

Sec. 6. The staff of the Legislative Council shall serve as staff for the Commission. The staff of the Legislative Budget Board and the Executive Budget staff shall cooperate in the survey in a manner to be agreed upon between them and the Commission and the Legislative Council staff. The various research agencies at the several institutions of higher learning shall co-operate with the Commission in a similar manner, and the Commission may in its discretion accept the assistance of other research organizations, provided that the Commission shall have the final responsibility for any reports submitted to the Legislature.

Partial invalidity

Sec. 7. If any word, phrase, clause, sentence, paragraph, section or part of this Act shall be held to be invalid or unconstitutional, such decision shall not affect the remaining portions of this Act; and the Legislature hereby declares that it would have passed such remaining portions of this Act despite such invalidity or unconstitutionality. Acts 1953, 53rd Leg., p. 569, ch. 214.

Effective 90 days after May 27, 1953, date of adjournment.

Section 8 of the Act of 1953 provided that the Act should cease to be effective as of July 1, 1955.

The Act of 1953 contained the following Preamble:

"Whereas, Various committees and agencies of the Legislature have found that there does not now exist a co-ordinated system of public agencies of higher education within the State; and

"Whereas, Possible duplications of academic programs and overlapping functions may cause unnecessary expense to the citizens of this State; and

"Whereas, The fact that student enrollment in public colleges is likely to increase by at least one-third within the next eight years, which fact sharpens the need for

more effective and economical plans for meeting the educational needs of citizens at the college level; and

"Whereas, There now exists no adequate facility or instrument of the State Government for re-examining the role and scope of public agencies of higher education with due attention to the needs of our citizens, the quality of education offered, the traditions and resources of State colleges and universities, and to the efficiency and economy of a complete plan for higher education; and

"Whereas, The Legislature of this State wishes to improve the present facilities of higher education so that Texas may eventually have a state-wide system of public higher education second to none in the nation; and

"Whereas, Attaining that objective is exceedingly important to the preservation of American democratic freedoms which are cherished throughout the nation generally and by Texans particularly; now, therefore,"

Title of Act:

An Act creating the Texas Commission on Higher Education; describing its appointments, compensation, organization, duties, and powers for studying the needs of higher education in this State and for recommending a co-ordinated system of State supported agencies of higher education; appropriating funds for its operation and maintenance; setting a termination date for its work; and declaring an emergency. Acts 1953, 53rd Leg., p. 569, ch. 214.

CHAPTER NINETEEN A—RURAL HIGH SCHOOLS

Art. 2922a. Authority to establish

Term of contracts with teachers, see Art. 2750a—2.

CHAPTER TWENTY—TEACHERS' RETIREMENT

Art.
2922—1a. Withdrawal of deposits; redeposit; credits for bond direction; good standing of applicants [New].

Article 2922—1. Teachers' Retirement System

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) shall be retired forthwith, provided that with the approval of his employer he may remain in service. As amended Acts 1951, 52nd Leg., p. 1486, ch. 502, § 1; Acts 1953, 53rd Leg., p. 1024, ch. 423, § 1.

Emergency. Effective June 13, 1953.

2. Allowance for Service Retirement.

(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 twice the accumulated contributions provided by the member in Subsection (1) of paragraph (a) of this Subsection. As amended Acts 1953, 53rd Leg., p. 1022, ch. 422, § 1.

Emergency. Effective June 13, 1953.

4. Allowance on Disability Retirement

(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 twice the accumulated contributions provided by the member in Subsection (1) of Paragraph (a) of this Subsection. As amended Acts 1953, 53rd Leg., p. 1022, ch. 422, § 2.

7. Optional Allowances for Service Retirement.

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.

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.

Any beneficiary who dies within thirty (30) days after retirement shall be considered as an active member at the time of death, provided that any member who has completed thirty (30) years of teaching experience in Texas and who is eligible to immediate retirement under the foregoing provisions of this Act, even though he has not retired, may by written designation in such form as the Board of Trustees may prescribe, select a nominee and an Optional Allowance for Retirement as enumerated in this Subsection 7, which shall become effective and payable to such

nominee immediately upon the member's death while still an active member. Unless such member shall have selected both a nominee and an Optional Allowance for Retirement, or if such named nominee shall have died, the provisions of the preceding Subsection 6 shall apply upon death of the member. After such member has selected a nominee and an Optional Allowance for Retirement, he may, by written designation in such form as the Board of Trustees may prescribe, at any time before retirement, change either or both of the previously designated nominee and Optional Allowance for Retirement. As amended Acts 1953, 53rd Leg., p. 1024, ch. 423, § 1.

Method of financing

Sec. 8.

1. The Teacher Saving Fund.

(d) During the time that the United States is involved in organized armed conflict, whether in a state of war or in a police action, 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 or in 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 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. As amended Acts 1953, 53rd Leg., p. 565, ch. 210, § 1.

Emergency. Effective May 27, 1953.

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 twice 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 twice 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 Regular Session of the Legislature, the State Board of Trustees shall certify to the State Comptroller the annual amount, as determined by the Actuary, 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 twice 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 twice 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. As amended Acts 1953, 53rd Leg., p. 1022, ch. 422, § 3.

3. Membership Annuity Reserve Fund.

(b) An amount equal to twice 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 twice the membership annuity purchased by the teacher. As amended Acts 1953, 53rd Leg., p. 1022, ch. 422, § 4.

Sections 5 and 6 of amendatory Act of 1953, Acts 1953, 53rd Leg., p. 1022, ch. 422, read as follows:

"Sec. 5. In addition to the transfers from the State Membership Accumulation Fund to the Membership Annuity Reserve Fund provided for in Section 3 of this Act, there shall also be transferred from the State Membership Accumulation Fund into the Membership Annuity Reserve Fund an amount equal to one-half the amount in the Membership Annuity Reserve Fund on the effective date of this Act.

"Sec. 6. This Act shall expire on August 31, 1963, and thereafter all of the provisions of Chapter 470, Acts of the 45th Legislature, Regular Session, 1937, as amended, shall continue in force as they existed immediately prior to the effective date of this Act."

Art. 2922—1a. Withdrawal of deposits; redeposit; credits for band direction; good standing of applicants

Section 1. Any teacher who has heretofore withdrawn his deposits from the Teacher Retirement System at Austin, Texas, under provisions of the Teacher Retirement Law and who was employed in the public schools during the school year beginning September 1, 1952, or who returns to teaching prior to September 1, 1957, and who teaches five con-

secutive years, shall have the privilege of depositing the total amount so withdrawn plus all back assessments and dues together with simple interest thereon at 2½% interest per annum and thereby receive credit for prior service and membership service rendered in the public schools and institutions of higher learning supported in whole or in part by the State. The amount due to be deposited by each teacher shall be determined by the Teacher Retirement System. It is specifically provided that in no event shall any person be eligible for retirement benefits until said payments have been made in full.

Sec. 1 (a). Any teacher who has heretofore been a member of the Teacher Retirement System and coming under the provisions of the Teacher Retirement Law and who was employed in the public schools during the school year beginning September 1, 1950, and who has since been forced to withdraw from teaching due to physical disability and who also has directed a public high school band for at least one semester, shall be allowed to count such semester of band direction as teaching under the provisions of this Act, and upon payment of all back assessments and dues, together with simple interest thereon at 2½% per annum, shall be eligible for retirement benefits as fully as any other person coming under the Act.

Sec. 1 (b). Any teacher coming under the provisions of the Teacher Retirement Law who was employed in the public schools during the school year beginning September 1, 1951, and who made application prior to September 3, 1952, and upon the payment of all fees, assessments and interest due prior to September 1, 1952, before the effective date of this Act, shall be in good standing for all intents and purposes; but provided, however, that such teacher shall comply with all provisions of the Teacher Retirement Act subsequent to the passage of this Act.

Sec. 2. A person shall have the privilege of re-depositing funds in the Teacher Retirement System only once under this provision of this Act. Acts 1953, 53rd Leg., p. 1015, ch. 417.

Emergency. Effective June 13, 1953.

Section 3 of the Act of 1953 made an appropriation for additional clerical help. Section 4 repealed conflicting laws and parts of laws to the extent of the conflict, and provided that if part of the act is declared unconstitutional the remainder of the act shall remain in full force and effect.

CHAPTER TWENTY-TWO—FOUNDATION SCHOOL PROGRAM

Art. 2922—13. Units

Professional units

Section 1.

(4) Exceptional Children Teacher Units. Exceptional children teacher units, special or convalescent, for each school district, separate for whites and separate for negroes, shall be allotted as follows:

(4)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 to such district such number of exceptional children teacher units to operate special or convalescent classes for exceptional children within said district pursuant to rules and regulations adopted by the State Board of Educa-

tion. 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.

Provided, however, that whenever property has been donated to a district or whenever a district has been granted the right to use certain property for the education of exceptional children as provided in this law, the benefits of this law shall be extended to such exceptional children educated on such property under the supervision of the school district owning or having the right to use such property whether or not such property is located within the confines of the district. In no event, however, shall such schools be operated by such district at such property where the property is located more than one (1) mile from the boundary lines of such district whether the same be located within this State or not. As amended Acts 1953, 53rd Leg., p. 577, ch. 221, § 1.

Emergency. Effective May 27, 1953.

Section 2 of the amendatory Act of 1953 repealed all conflicting laws or parts of laws.

Art. 2922—15. Services and operating costs

Total current operating cost

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 exceptional children teacher units, 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 Dollars ($400) 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 Dollars ($29,700).

c. Districts having eighty-five (85) or more such units shall be allotted the sum of Three Hundred and Fifty Dollars ($350) for each of said units. As amended Acts 1953, 53rd Leg., p. 604, ch. 241, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the amendatory Act of 1953 repealed all conflicting laws and parts of laws to the extent of such conflict only.

Art. 2922—16. Finances

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).

Provided, however, that during the 1953–54 and the 1954–55 fiscal years no county shall be assigned an amount, in any one year, that exceeds the previous year's assignment more than ten percent. Upon application of the economic index all amounts in excess of ten percent increase over the previous year's assignment shall be deducted from that county's assignment and redistributed among the balance of the counties in the State in the same proportion that each county's assignment, under the new economic index, bears to the total amount assigned to the counties that showed less than a ten percent increase.

The Commissioner of Education, subject to approval of the State Board of Education, shall recompute annually a new economic index not later than the first week in March of each year, using an average of data for a three-year period which shall be taken from the most recently available official publications and reports of agencies of the State of Texas or the Federal Government. The first economic index so determined for each county under the provisions of this amendatory Act shall be effective beginning with the 1953–54 school year, and thereafter the economic index re-computed annually shall be effective beginning with the new school year in the calendar year of its re-computation.

Provided, however, that the requirement of this Act that the re-computation of the economic index shall be had not later than the first week in March of each year, shall not preclude the computation of the index prescribed herein after that time for the purposes of the 1953–54 school year. As amended Acts 1953, 53rd Leg., p. 188, ch. 174, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

TITLE 51—ELEEMOSYNARY INSTITUTIONS

Art.
3183d. Conveyances by counties in consideration of establishment of tuberculosis sanitorium [New].

Art. 3183d. Conveyances by counties in consideration of establishment of tuberculosis sanitorium

Section 1. All counties in this State are hereby authorized to donate and convey land to the State of Texas in consideration of the establishment of a State Tuberculosis Sanitorium by the Board for Texas State Hospitals and Special Schools.

Sec. 2. The desirability, manner, and form of the donation and conveyance shall be within the discretion of the Commissioners Court of the particular county.

Sec. 3. No provision of this Act shall authorize the Commissioners Court of any such county to convey any land given or donated or granted to the county for the purpose of education in any manner other than that which is or shall be directed by law. Acts 1953, 53rd Leg., p. 46, ch. 37.

Emergency. Effective March 19, 1953.

Section 4 of the Act of 1953 repealed conflicting laws and parts of laws only in so far as in conflict.

Title of Act:

An Act authorizing counties in this State to donate and convey land to the State of Texas for the establishment of a State Tuberculosis Sanitorium; providing the method of conveyance; excepting lands donated for educational purposes; providing a repealing clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 46, ch. 37.

CHAPTER TWO—STATE HOSPITALS

Art. 3201a. Harlingen State Tuberculosis Hospital; San Antonio State Tuberculosis Hospital

Establishment

Section 1. There shall be constructed, established, and maintained two new hospitals for the care, treatment, and support of tuberculosis patients of this State, which hospitals are to replace the Weaver H. Baker Tuberculosis Sanatorium. One of the new hospitals shall be known as the Harlingen State Tuberculosis Hospital, and shall be located on the real property donated to the State of Texas for this purpose by Cameron County. The second of the new hospitals shall be known as the San Antonio State Tuberculosis Hospital, and shall be located on the grounds of the present San Antonio State Hospital. Upon completion of the new San Antonio State Tuberculosis Hospital, the buildings now under construction at the San Antonio State Hospital for treating tubercular mentally ill persons shall become a unit of, and a part of, the new tuberculosis hospital.

Buildings

Sec. 2. There shall be constructed upon the sites of the two new State Tuberculosis Hospitals specified above, permanent, suitable, substantial, and fireproof buildings sufficient in all respects to care for and treat tuberculosis patients. The Board of Texas State Hospitals and Special Schools shall proceed to prepare plans and specifications for said buildings; and immediately after this Act becomes effective and title to land designated as the site for the Harlingen State Tuberculosis Hospital shall have been approved by the Attorney General as being vested in the State of Texas, the Board shall contract for the erection of said buildings for the two tuberculosis hospitals established by this Act, as provided by law; and said Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Superintendent; personnel; patients

Sec. 3. Upon the completion of the buildings and facilities, the Board for Texas State Hospitals and Special Schools may employ a Superintendent for each of the two new hospitals; and shall also employ such additional personnel as are necessary to operate and maintain properly such institutions and to treat adequately such patients as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit patients to the two new hospitals, and shall provide for the care and maintenance of such patients, under the same laws, rules and regulations as govern the admission and care of tubercular patients at the McKnight State Sanatorium at Sanatorium, Texas. The Board for Texas State Hospitals and Special Schools is authorized to transfer patients between institutions in the State Hospital System for the effective use of physical facilities and medical services.

Appropriation

Sec. 4. There is hereby appropriated to the Board for Texas State Hospitals and Special Schools out of moneys not otherwise appropriated in the General Revenue Fund of the State Treasury, the sum of Three Million Two Hundred Twenty-five Thousand ($3,225,000.00) Dollars for the buildings, improvements and equipment of buildings authorized in this Act.

Federal funds

Sec. 5. In addition, there also is appropriated to the Board for Texas State Hospitals and Special Schools such Federal funds as the U. S. Government may grant for the construction of the Harlingen State Tuberculosis Hospital and the San Antonio State Tuberculosis Hospital, and such other funds as may be given or granted by any State Agency, and said Board is authorized and directed to obtain and to expend such funds as are available for those two projects.

Architectural services

Sec. 5a. Any fees for architectural services paid from the appropriations made herein shall be at the same rate as provided in Chapter 499, Article 6, Section 3, page 1478 of the General and Special Laws of Texas, 52nd Legislature [1]. All contracts made in connection with such constructions and furnishings shall be subject to the review and approval of the State Board of Control. Acts 1953, 53rd Leg., p. 36, ch. 29.

[1] Appropriation Act.

Emergency. Effective March 4, 1953.

San Antonio State Tuberculosis, see, also, art. 3201b.

Title of Act:

An Act providing for the location, construction, maintenance and operation of State Hospitals for tuberculosis patients to replace the State's facilities at Weaver Baker Sanatorium; providing for the care and treatment of tubercular patients; providing for the transfer of patients; making appropriations for such purposes; providing the rate of fees for architectural services; making contracts subject to the review and approval of the State Board of Control; and declaring an emergency. Acts 1953, 53rd Leg., p. 36, ch. 29.

Art. 3201b. Legion State Sanatorium; San Antonio State Tuberculosis Hospital

There shall be added to the Hospitals and Special Schools listed in Article II, H. B. No. 426, Acts of the Regular Session of the Fifty-second Legislature [1], the Legion State Sanatorium and the San Antonio State Tuberculosis Hospital, over which the Board for Texas State Hos-

pitals and Special Schools shall exercise the same functions, control and management as it exercises over the hospitals and special schools listed therein, and shall pay the operating and maintenance expenses, including salaries for personnel, from the Contingency Reserve Fund provided for in said H. B. No. 426. The Board for Texas State Hospitals and Special Schools is hereby authorized to transfer tubercular patients from the Weaver H. Baker Tuberculosis Sanatorium, Mission, Texas, to the San Antonio State Tuberculosis Hospital and to the Legion Sanatorium, a part of the Veterans Administration Hospital at Kerrville, Texas. The Board for Texas State Hospitals and Special Schools shall provide for and admit patients to and operate such sanatoria at Kerrville and San Antonio under the same laws, rules and regulations as now provided for admission and treatment of patients at the McKnight State Sanatorium. Acts 1953, 53rd Leg., p. 38, ch. 30, § 1.

1 Appropriation Act.

Emergency. Effective March 4, 1953.

San Antonio State Tuberculosis Hospital, see, also, art. 3201a.

Title of Act:

An Act authorizing the Board for Texas State Hospitals and Special Schools to transfer tuberculosis patients from the Weaver H. Baker Tuberculosis Sanatorium to the San Antonio State Tuberculosis Hospital and the Legion Sanatorium, a part of the Veterans Administration Hospital, Kerrville, Texas; providing for the care, treatment, and support of tuberculosis patients to be transferred; and declaring an emergency. Acts 1953, 53rd Leg., p. 38, ch. 30.

CHAPTER THREE—OTHER INSTITUTIONS

Art. 3202—a. Price for care

The Board for Texas State Hospitals and Special Schools, directly or through an authorized agent or agents, may make contracts fixing the price for the support, maintenance, and treatment of children maintained, supported and treated, in the State Orphans Home, the State Home for Dependent and Neglected Children, Austin State School, and the Deaf, Dumb and Blind Institute for Colored Youths, at a sum fixed by the Board for Texas State Hospitals and Special Schools, not to exceed the actual cost of supporting such child, or for such part thereof as the estate of said child or any person legally liable for such child's support may be able to pay or agree to pay, and binding the person making such contracts to payments thereunder. The costs of educating such children, however, shall not be included in arriving at such costs. Such payments by guardians shall be in accordance with the legal method controlling expenditures by guardians. The Board for Texas State Hospitals and Special Schools is authorized to demand investigation to determine whether or not a child is possessed of or entitled to property and whether or not some other person is legally liable for his support and to pay therefor. The county judge of the county from which the child is received into such institution or the county having jurisdiction over the estate of such child may from time to time, upon the request of the Board for Texas State Hospitals and Special Schools, cite the guardian of such child, or other persons legally liable for his support, to appear at some regular term of the county court having jurisdiction of such matter, then and there to show cause why the State should not be paid or have judgment for the amount due it for the support and maintenance of such child; or such guardian or other persons legally liable for the support of such child may be cited to appear at some regular term of the district court having jurisdiction of such matter, then and there to show cause why the State should not have judgment for the amount due it for the support and maintenance of such child; and, if sufficient cause be not

shown, judgment may be entered against such guardian or other persons for the amount found to be due the State, which judgment may be enforced as in other cases. The certificate of the superintendent of the State institution or school wherein such child is being, or shall have been supported and maintained, as to the amount due, shall be sufficient evidence to authorize the Court to render judgment. The county or district attorney, upon request of the Board for Texas State Hospitals and Special Schools, shall appear and represent the State in all cases provided for in this Section; provided, however, that the provisions of this Act shall not apply to any child maintained, supported or treated in the Deaf, Dumb and Blind Institute for Colored Youths or Austin State School unless the person legally liable for the support of such child agrees to pay such cost as is herein provided. As amended Acts 1953, 53rd Leg., p. 552, ch. 201, § 1.

Emergency. Effective May 26, 1953.

Art. 3206. Repealed. Acts 1953, 53rd Leg., p. 23, ch. 15, § 1. Eff. 90 days after May 27, 1953, date of adjournment

Art. 3220—1. Repealed. Acts 1953, 53rd Leg., p. 24, ch. 16, § 1. Eff. 90 days after May 27, 1953, date of adjournment

Art. 3241. Classification of patients

Patients admitted to any State tuberculosis hospital or sanatoria shall be of two classes, to-wit: (1) indigent public patients; (2) non-indigent patients.

Indigent public patients are those who possess no property of any kind nor have any one legally responsible for their support, 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 some one legally liable for their support. This class shall be kept and maintained at the expense of the State, as in the first instance, but in such case the State shall have the right to be reimbursed for the support of such patients, and the claim of the State shall constitute a valid lien against any property of any such patient or in case he has a guardian, against any property of his which is in the possession of said guardian, or against the person or persons who may be legally liable for his support and financially able to contribute as herein provided; and such claim may be collected by suit or other proceedings in the name of the State of Texas by the County or District Attorney of the county from which said patient is sent or the Attorney General, against such patient or his guardian or the person or persons liable for his support; and the suit shall be brought in the county from which such patient was sent. Such suit shall be instituted upon the written request of the Superintendent of said institution accompanied by a certificate as to the amount due the State, which in no case shall exceed the actual cost of maintaining and treating such patient. In all suits or proceedings, the certificate of the Superintendent shall be sufficient evidence of the amount due the State for the support of such patient. It shall be the duty of said Attorney upon such request being made to institute and conduct such proceedings and for which he shall be entitled to a commission of ten per cent of the amount collected. All moneys so collected less such commission shall be by the County Attorney paid to the Super-

intendent of said institution, who shall receive and receipt for the same. As amended Acts 1953, 53rd Leg., p. 449, ch. 135, § 1.

Emergency. Effective May 14, 1953.

Section 2 of the amendatory Act of 1953 repealed conflicting laws and parts of laws to the extent of the conflict. Section 3 provided that partial invalidity should not affect the remaining portions of the Act.

Arts. 3252–3254. Repealed. Acts 1953, 53rd Leg., p. 26, ch. 19, § 1. Eff. 90 days after May 27, 1953, date of adjournment

Art. 3263a. Repealed. Acts 1953, 53rd Leg., p. 26, ch. 18, § 1. Eff. 90 days after May 27, 1953, date of adjournment

TITLE 55—EVIDENCE

1. WITNESSES AND EVIDENCE

Art. 3731a. Official written statements, certificates, records, returns, reports, and copies thereof

Authentication of Copy

Sec. 4. Such writings may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy. Except in the case of a copy of an official writing from a public office of this state or a subdivision thereof, the attestation shall be accompanied with a certificate that the attesting officer has the legal custody of such writing. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States, or by any officer of a United States military government, stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office. As amended Acts 1953, 53rd Leg., p. 756, ch. 304, § 1.

Emergency. Effective June 5, 1953.

Section 2 of the amendatory Act of 1953 declaring an emergency recited that the words "of the court, or may be made by any public officer having a seal" were inadvertently omitted from the Act of 1951.

TITLE 60—FEEDING STUFF

Art. 3872. Labeling of feeding stuff

Every lot or parcel of feeding stuff, except whole grains, cottonseed hulls, rice hulls, and peanut hulls used for feeding farm livestock, sold, offered or exposed for sale in bags or other individual containers in this State, for use within the State, shall bear or have attached thereto a label or tag carrying a plainly printed statement clearly and truly certifying the number of net pounds of feeding stuff in the package, stating the name or names of materials of which such weight is composed where the contents are of mixed nature, the name, brand or trademark under which the article is sold, the name and address of the manufacturer or importer, the place of manufacture, such information as is required by Article 3879, if any, and a chemical analysis stating the minimum percentage it contains of crude protein, allowing one per cent (1%) of nitrogen to equal six and one-quarter per cent (6.25%) of protein, of crude fat, of nitrogen-free extract, and the maximum percentage it contains of crude fiber; these constituents to be determined by the methods adopted at the time by the Association of Official Agricultural Chemists of North America. If the feeding stuff is sold in bulk, the seller shall furnish to the purchaser a written or printed statement showing all the information required in the labeling of feeding stuff in individual containers. As amended Acts 1953, 53rd Leg., p. 826, ch. 333, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 9 of the Act of 1953 provided that partial invalidity should not affect the validity of the remaining portions of the Act. Section 10 repealed conflicting laws or parts of laws.

Art. 3875. Inspection tax and tag

The manufacturer, importer, agent or seller of each feeding stuff shall, before the article is offered for sale, pay to the director of the Texas Agricultural Experiment Station an inspection tax of ten cents (10¢) for each ton of such feeding stuff sold, or offered for sale, in this State for use within the State, and shall affix to each lot shipped in bulk, and to each bag, barrel or other package of such feeding stuff, a tag to be furnished by said director, stating that all charges specified in this article have been paid. The director of said experiment station is hereby empowered to prescribe the form of such tags, and adopt such regulations as may be necessary for the enforcement of this law.

In lieu of the requirement for affixing the tax tag provided for in the preceding paragraph, upon application of any manufacturer, importer, agent, or seller to the director of the Texas Agricultural Experiment Station for a permit to report the tonnage of feeding stuff sold and to pay the inspection tax of ten cents (10¢) per ton on the basis of said report, the director shall grant the permit upon compliance with the following conditions: (1) the applicant must keep such records as may be necessary, to indicate accurately the tonnage of feeding stuff sold; (2) before

the permit is granted, the applicant must deposit with the director cash in the amount of One Thousand Dollars ($1,000) or securities acceptable to and approved by the director of a value of at least One Thousand Dollars ($1,000), or must post with the director a surety bond payable to the State of Texas in the amount of One Thousand Dollars ($1,000), executed by a corporate surety company authorized to do business in Texas and approved by the director, conditioned upon the faithful performance of the provisions of this article; or must post with the director a bond with at least two good and sufficient and solvent personal sureties, payable to the State of Texas in the amount of One Thousand Dollars ($1,000) and approved by the director, conditioned upon the faithful performance of the provisions of this article; (3) if the home office or principal place of business of the applicant is located outside the State, the applicant must appoint in writing, the instrument of appointment to be deposited with the director, a resident agent upon whom service may be had in both civil and criminal actions filed by the State in the administration and enforcement of the provisions of Title 60 of the Revised Civil Statutes and Articles 1439 to 1498, inclusive, of the Penal Code. A sworn report of tonnage shall be filed in the office of the director within ten (10) days after the close of each quarter year ending with the last day of November, February, May, and August, covering the tonnage of feeding stuff sold during the preceding quarter, and shall be accompanied by the amount of tax due for that quarter. If the permittee fails to file the report or pay the tax within the time allowed herein, or if the amount of tonnage reported is less than the amount actually sold, the director shall revoke the permit after reasonable notice and opportunity for hearing. A penalty of ten per cent (10%) of any tax which is not paid within the time allowed shall be added to the amount of tax due, and the amount of the tax and the penalty shall constitute a debt and shall be recoverable out of the securities or bond hereinbefore referred to. Venue of all suits for the recovery of taxes and penalties shall be in the county in which the offense occurs. The director or his duly authorized representative shall have permission to examine the records of the permittee and verify the statement of tonnage sold during any period.

Whenever the manufacturer or importer or shipper of a feeding stuff shall have filed the certified statement provided for in Article 3874, and paid the inspection tax, no agent or seller of said manufacturer, importer or shipper shall be required to file such statement or pay such tax. The amount of the inspection tax and penalties received by said director shall be paid into the State Treasury. So much of the inspection tax and penalties collected under this title shall be paid by the State Treasurer to the Treasurer of the Texas Agricultural and Mechanical College as the director of the Texas Agricultural Experiment Station may show by his bills has been expended in performing the duties required by this title, but in no case to exceed the amount of the inspection tax and penalties received by the State Treasurer under this title.

It is the intent of this Act to allow payment of the tax levied herein either by use of tax tags or the reporting system or by a combination of both. As amended Acts 1953, 53rd Leg., p. 826, ch. 333, § 2.

Art. 3881a. Definitions

(a) "Special-formula feed" means a mixture prepared for and according to the instructions of a consumer-buyer from ingredients which are or have been purchased wholly from the person who manufactures, processes or mixes such mixture.

(b) "Custom milling," "custom mixing," or like terms mean the milling, mixing or processing where all the ingredients are delivered by the owner thereof or by his agent (which agent shall not be the miller, mixer or processor or his employee) to the mill and are processed according to his instructions. Acts 1953, 53rd Leg., p. 826, ch. 333, § 6.

Art. 3881b. Exemptions

None of the provisions of the Revised Civil Statutes of Texas, 1925, Articles 3872, 3874, 3875, or 3877, as amended, nor the Penal Code of the State of Texas, 1925, Articles 1489, 1491, 1492, or 1493, shall apply to sales of special-formula feed, or custom milling or mixing, or any combination of such special-formula feed and custom milling or mixing (1) when a tax has been paid on all ingredients supplied by the person mixing, milling or processing such feed and (2) when all other ingredients are supplied by the consumer-buyer for his own use and not for resale. Acts 1953, 53rd Leg., p. 826, ch. 333, § 7.

Art. 3881c. Special formula feeds; custom mixed or milled feed; records; invoices; samples; analysis

Any person who sells special-formula feed or who processes custom mixed or milled feed, or any combination of such feeds shall keep accurate records of all transactions regarding such sales and services; and shall give the consumer-buyer an invoice and shall forward a duplicate copy of such invoice to the director of the Texas Agricultural Experiment Station within ten (10) days after the close of each quarter year ending with the last day of November, February, May and August. The invoice shall show the total amount of such exempt feeds, the amount of each ingredient in the mixture, and the name of the consumer-buyer to whom such feed is delivered. For the purpose of determining the accuracy of such records, the director of said experiment station may with the permission of the consumer-buyer collect samples from the consumer-buyer named in the invoice and analyze such samples to determine the conformity of the mixture to the statement on the invoice. Provided, however, such invoice shall not be required nor issued at any time after the consumer-buyer furnishes his affidavit to the director setting forth the fact that he does not want such invoice issued, and the director shall not collect samples from the consumer-buyer when such affidavit is so furnished, and provided further that such affidavit may be revoked in writing and filed with the director at any time. Failure to comply with the requirements of this Section is punishable in the same amount and manner as prescribed in Article 1493 of the Penal Code of the State of Texas. Acts 1953, 53rd Leg., p. 826, ch. 333, § 8.

Art. 3881d. Exemption from provisions except taxes

It is specifically provided that no portion or Section of this Act, except those pertaining to taxes, shall apply to any milling or mixing process when all of the ingredients are delivered by the owner thereof or by his agent, or if the customer or his agent furnishes a portion of the ingredients, and the miller, mixer, or processor adds other ingredients in amounts specified by such customer or his agent, or if the customer specifies the amounts and percentages in such mixture. Acts 1953, 53rd Leg., p. 826, ch. 333, § 8(a).

TITLE 61—FEES OF OFFICE

CHAPTER ONE—GENERAL PROVISIONS

Art. 3886h. Compensation of district attorney and assistants in 34th District

Section 1. The District Attorney of the 34th Judicial District of this State shall be paid a salary in the amount not to exceed the salary paid to the District Clerk of El Paso County, Texas, in said 34th Judicial District. The First Assistant District Attorney of said 34th Judicial District shall receive a salary of Five Thousand, Five Hundred Dollars ($5,500) per year and the other Assistant District Attorneys and Investigators in said District shall receive salaries not to exceed Five Thousand Dollars ($5,000) per year.

Sec. 2. The Commissioners Court of El Paso County, Texas, in said 34th Judicial District, is hereby authorized to pay the salaries of the Assistants and Investigators as provided in Section 1 of this Act and to supplement the salary of the District Attorney paid by the State of Texas in such an amount that the total salary paid shall not exceed the maximum provided for in Section 1 hereof. Nothing herein shall affect the present existing law relating to the manner of selecting, determining the number, and fixing the amount of salaries to be paid the First Assistant District Attorney, the Assistant District Attorneys and Investigators, except as herein provided.

Sec. 3. If any paragraph, phrase, clause or section of this Act be held invalid, it shall not affect the balance of said Act, but it is expressly declared to be the intention of the Legislature that it would have passed the balance of said Act without such portion as may be held invalid. Acts 1953, 53rd Leg., p. 21, ch. 12.

Emergency. Effective Feb. 23, 1953.

Title of Act:

An Act fixing the salaries of the District Attorney, First Assistant District Attorney, Assistant District Attorneys and Investigators of the 34th Judicial District, and authorizing the Commissioners Court of El Paso County, Texas, in said 34th Judicial District, to pay the salaries of the said Assistants and Investigators and to supplement the salary of the District Attorney paid by the State of Texas; providing that the present existing law relating to the manner of selecting, determining the number, and fixing the amount of salaries to be paid the First Assistant District Attorney, Assistant District Attorneys and Investigators shall not be affected by this Act except as herein provided; providing, if a portion of this Act is declared invalid, it shall not affect the remaining portions; and declaring an emergency. Acts 1953, 53rd Leg., p. 21, ch. 12.

Art. 3887b. Counties with 650,000 inhabitants; salary; assistants

Section 1. County Attorneys in counties having a population of six hundred and fifty thousand (650,000) inhabitants or more according to the last preceding Federal Census shall receive an annual salary of not less than Nine Thousand, Nine Hundred Dollars ($9,900) nor more than

Eleven Thousand, Eight Hundred Dollars ($11,800), the exact amount to be fixed by the Commissioners Court but at a sum not less than the minimum nor more than the maximum provided above.

Sec. 2. In all counties in which this bill applies, whenever the County Attorney shall require the service of assistants, investigators and secretaries, in the performance of his duties, he shall apply to the Commissioners Court for authority to appoint such assistants, investigators and secretaries stating by sworn application the number needed, the position to be filled, the duties to be performed and the amount to be paid. The court shall make its order authorizing the appointment of such assistants, investigators and secretaries and fix the compensation to be paid them, and determine the number to be appointed as in the discretion of said court may be proper. Provided that in no case shall the Commissioners Court, or any member thereof, attempt to influence the appointment of any person as assistant, investigator or secretary in the County Attorney's office. All of the salaries provided for in this Act shall be paid from the officers' salary fund if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers' salary fund. Acts 1953, 53rd Leg., p. 788, ch. 317.

Emergency. Effective June 5, 1953.

Title of Act:

An Act prescribing the compensation of County Attorneys in counties having a population of six hundred and fifty thousand (650,000) inhabitants or more according to the last preceding Federal Census; providing for the appointment of assistants, investigators and secretaries in such counties; providing for their compensation; and declaring an emergency. Acts 1953, 53rd Leg., p. 788, ch. 317.

Art. 3888. 2765–3886 County judge acting as Ex-officio County Superintendent; Assistant Superintendent

Article 3888. County Judge Acting as Ex-officio County Superintendent; Assistant Superintendent.

In a county where the county judge acts as ex-officio county superintendent of public instruction, he shall receive and retain in addition to all other compensation provided by law, not more than Two Thousand, Six Hundred ($2,600.00) Dollars a year, as the county board of school trustees of the respective counties may provide, whether he is compensated on a fee or salary basis. In such a county an ex-officio assistant superintendent of public instruction shall receive not more than Two Thousand, Six Hundred ($2,600.00) Dollars a year, as the county board of school trustees of the respective counties may provide.

The county judge while acting as ex-officio county superintendent of public instruction, for office and traveling expenses may receive an amount not to exceed One Thousand, Fifty ($1,050.00) Dollars a year, as the county board of school trustees of the respective counties may provide. The above amounts shall be paid in the manner specified in Chapter 49, Acts of the 41st Legislature, Fourth Called Session,[1] and in Chapter 175, Acts of the 42nd Legislature, Regular Session.[2] As amended Acts 1947, 50th Leg., p. 519, ch. 305, § 2; Acts 1951, 52nd Leg., p. 329, ch. 200, § 1; Acts 1953, 53rd Leg., p. 793, ch. 322, § 1.

1 Article 2700d—1.

2 Article 2827a.

Effective 90 days after May 27, 1953, date of adjournment.

Section 5 of the amendatory Act of 1953 provided that the provisions of the Act should be cumulative of all other laws. Section 6 provided that the Act should become operative on the first day of the month immediately succeeding the effective date thereof. Section 7 provided that partial invalidity should not affect the remainder of the Act.

Art. 3888b. Compensation in addition to other compensation

The compensation provided county judges acting as ex-officio county superintendents from whatever source shall be received and retained by them in addition to all other compensation provided by law. Acts 1953, 53rd Leg., p. 793, ch. 322, § 4.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 3899b. Offices, office supplies, furniture and automobiles; aid for district attorneys

Sec. 3. In addition to the expenditures authorized in the preceding paragraphs, Numbers 1 and 2 of said Article 3899b, in all counties having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants according to the preceding or any future Federal Census, the Commissioners Court of the county of the Tax Assessor and Tax Collector's residence may, upon the written and sworn application of such officer, stating the necessity therefor, allow one or more automobiles to be used by the Tax Assessor and Collector or his deputies in the discharge of official business, which, if purchased by the county shall be bought in the manner prescribed by law for the purchase of supplies and paid for out of the general fund of the county. All expenses incurred in the operation, repair, and maintenance of such automobile or automobiles purchased by the county shall be incurred and paid in the manner provided by subdivision 1 of Section 19 of Acts, 1935, Forty-fourth Legislature, Second Called Session, Chapter 465. The Commissioners Court may, in lieu of the purchase of automobiles for the use of the Assessor and Collector of Taxes, authorize the use of personally owned automobiles of the Assessor and Collector of Taxes or his deputies in which event such Assessor and Collector of Taxes or his deputies shall file monthly sworn reports with the County Auditor showing mileage covered by such automobiles on official business and the nature thereof and may be allowed six cents (6¢) per mile for each mile traveled which sum shall cover all expenses of maintenance, operation, and depreciation, and claims therefor shall be audited and allowed in the manner provided by Section 19 of Acts, 1935, Second Called Session, Chapter 465,[1] for other expenses of County and District Officers. The District Attorney or Criminal District Attorney may be allowed by order of the Commissioners Court of his county, such amount as said Court may deem necessary to pay for, or aid in, the proper administration of the duties of such office not to exceed Twenty-five Hundred Dollars ($2500) in any one calendar year; provided that such amounts as may be allowed shall be allowed upon written application of such District Attorney or Criminal District Attorney showing the necessity therefor, and provided further that said Commissioners Court may require any other evidence that it may deem necessary to show the necessity for such expenditures, and that its judgment in allowing or refusing to allow the same shall be final.

No expenditures made in accordance with the preceding paragraph shall lessen or diminish the amount of fees that said District Attorney or Criminal District Attorney may retain or receive as compensation under the terms of Articles 3883 and 3891 of the Revised Civil Statutes as amended by the Acts of the Forty-third Legislature or under the terms of Article 3892 of said Statutes as amended by the Acts of the Forty-first Legislature and this Act shall be cumulative of any other Act now in effect permitting such Commissioners Court to defray, or aid in de-

fraying the expenses incurred by such County Tax Assessor and Collector, or District Attorneys or Criminal District Attorneys, and all such Acts shall be and remain valid and effective and wholly unaffected hereby. As amended Acts 1953, 53rd Leg., p. 579, ch. 222, § 1.

1 Article 3912e.

Emergency. Effective May 27, 1953.

Art. 3902f—1. Increase of compensation of deputies, clerks and assistants by commissioners court

Section 1. In each county in the State of Texas having a population of one hundred and fifty thousand (150,000) inhabitants or under according to the last preceding Federal Census, or any future Federal Census, the Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputies, assistants and clerks of any district, county or precinct officer justify the increase, to enter an order increasing the compensation of such deputy, assistant or clerk in an additional amount not to exceed thirty-five per cent (35%) of the sum allowed under the law at the present time.

Sec. 1A. No increase allowed under Section 1 of this Act shall result in any deputy, assistant, or clerk receiving a greater salary than is allowed the district, county or precinct officer under whom such deputy, assistant or clerk is employed.

Sec. 2. The provisions of this Act shall be cumulative of all other laws pertaining to the compensation of deputies, assistants and clerks of any district, county or precinct officer.

Sec. 3. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity. Acts 1953, 53rd Leg., p. 777, ch. 308.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 3912e—4d. Counties of 500,000 or more; district, county and precinct officers, deputies and employees

Salaries fixed by Commissioners Court

Section 1. In all counties in this State having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, the Commissioners Court of such counties shall fix the salaries of county officials in the following manner:

Counties of 500,000 to 600,000

Sec. 2. In all counties in this State having a population of five hundred thousand (500,000) but not exceeding six hundred thousand (600,000) according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of the County Judge, Sheriff, District or Criminal District Attorney, Tax Assessor-Collector and District Clerk at Ten Thousand, Eight Hundred Dollars ($10,800) per annum; the Judges of the County Courts at Law at Nine Thousand, Six Hundred Dollars ($9,600) per annum; the County Commissioners at Eight Thousand, Four Hundred Dollars ($8,400) per annum; and the County Treasurer at Eight Thousand, Two Hundred Dollars ($8,200) per annum.

Amendment of order or budget

Sec. 3. The Commissioners Court in such counties is hereby authorized and shall amend the present order of said court fixing the maximum salaries of said officials and to amend the budget for the fiscal year, 1953, from and at the effective date of this Act for the balance of the said fiscal year in order to grant any increases in salaries authorized by this Act. Provided, however, that nothing, except as herein provided shall be construed as in any manner modifying or changing the provisions of the present rule or any amendments thereto provided for the preparation of the County Budget.

Counties of 600,000 or more; County Judge and County Commissioners

Sec. 4. In all counties of this State having a population of six hundred thousand (600,000) or more according to the last preceding Federal Census, the County Judge and Commissioners of such counties shall be paid an annual salary in equal monthly installments as follows: County Judge, Thirteen Thousand, Five Hundred Dollars ($13,500); County Commissioners, Nine Thousand, Six Hundred Dollars ($9,600).

Sheriff; district and county attorneys and clerks; tax assessor and collector

Sec. 5. In all of said counties the Commissioners Court of such counties shall fix the salaries of the Sheriff, Criminal District Attorney, District Attorney, County Attorney, County Clerk, District Clerk, and Tax Assessor and Collector at not less than Nine Thousand, Nine Hundred Dollars ($9,900) nor more than Eleven Thousand, Eight Hundred Dollars ($11,800) per annum payable in equal monthly installments; provided, however, that the total salary received by the Tax Assessor and Collector, including all additional fees and compensation, shall not exceed Fifteen Thousand, Eight Hundred Dollars ($15,800) in the aggregate.

Judges of county courts at law, county criminal courts and probate courts

Sec. 6. In all of such counties the Commissioners Court of such counties shall fix the salaries of the County Courts at Law and the Judges of the County Criminal Courts at not less than Eight Thousand, Two Hundred Dollars ($8,200) nor more than Ten Thousand, Six Hundred Dollars ($10,600) and the salaries of the Judges of the Probate Courts at not less than Eight Thousand, Two Hundred Dollars ($8,200) nor more than Ten Thousand, Eight Hundred Dollars ($10,800). Each of such salaries payable in equal monthly installments.

Justices of the peace and constables

Sec. 7. In all of such counties, the Commissioners Court of such counties shall fix the salaries of the Justices of the Peace and the Constables at not to exceed Eight Thousand, Eight Hundred Dollars ($8,800) per annum, to be paid in equal monthly installments; provided, however, that the Justices of the Peace and Constables whose precincts lie wholly or in part in cities having a population of four hundred and thirty thousand (430,000) or more according to the last preceding Federal Census shall receive not less than Seven Thousand, Five Hundred Dollars ($7,500) per annum.

Judicial and administrative services of district judges

Sec. 8. In all of such counties, the Judges of the several District Courts in such counties shall each receive from county funds for all judicial and administrative services required of them an annual salary or allowances of Four Thousand, Five Hundred Dollars ($4,500) to be paid by the Commissioners Court in equal monthly installments. Such additional compensation shall be in addition to the salaries payable out of State funds; provided, however, that the annual aggregate salary of said District Judges from both State and County sources shall not exceed Thirteen Thousand, Five Hundred Dollars ($13,500).

Deputies, clerks and employees

Sec. 9. The Commissioners Court of such counties shall fix the salaries of all Deputies, Clerks, and other employees including road and bridge employees as well as the number of Deputies, Clerks, and other employees including road and bridge employees to be allowed all District, County and Precinct Officers. In fixing the salaries of all Deputies, Clerks and other employees including road and bridge employees, the Commissioners Court shall always take into consideration the duties and responsibilities of said Deputies, Clerks, and other employees; provided, however, in the office of the County Auditor the County Auditor shall prepare a list of the number of assistants sought to be appointed, their duties, and the salaries to be paid each, and shall certify the list to the District Judges, and they shall carefully consider the application for the appointment of said assistants and may make all necessary inquiries concerning the qualifications of the persons named, the positions sought to be filled and the reasonableness of the salaries requested, and if, after such considerations, a majority of the District Judges shall approve the appointments sought to be made or any number thereof, they shall prepare a list of the appointments so approved and the salaries to be paid each and certify said list to the Commissioners Court of said county, and the Commissioners Court shall thereupon order the amount paid from the general fund of the county upon the performance of the services; and said Court shall appropriate adequate funds for the purpose.

Automobile expense

Sec. 10. Said Commissioners Courts are hereby authorized to allow such automobile expense to any officer or employee in the performance of his official duties as they may deem necessary.

Salaries in lieu of other compensation; other laws not repealed

Sec. 11. The salaries and other compensation contained in this Act shall be in lieu of all other salaries and compensation now received by any District, County or Precinct Officer of such counties; provided, however, that nothing in this Act shall be construed to repeal, alter or amend any of the provisions of Senate Bill No. 271, Chapter 368, page 620 of the Acts of the Fifty-second Legislature, 1951,[1] or of the provisions of Senate Bill No. 426, Chapter 366, page 699 of the Acts of the Fifty-first Legislature, 1949,[2] except in so far as such Acts are in conflict with or limited by the provisions of this Act. Acts 1953, 53rd Leg., p. 1050, ch. 435.

1 Vernon's Ann.P.C. art. 1436—1, § 57.

2 Article 5139.

Emergency. Effective June 13, 1953.

Section 12 of the Act of 1953 provided that partial unconstitutionality should not affect the validity of the remaining portions of the Act.

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

Title of Act:

An Act to allow the Commissioners Court in certain counties to fix the salaries of the District, County and Precinct Officers and all deputies and employees of such counties; to provide that the Commissioners Court shall fix the number of deputies and employees of certain District, County and Precinct Officers; to provide for automobile allowance for certain officers and employees; providing for additional compensation from county funds for the County and District Judges of such counties; repealing all laws in conflict herewith; providing a saving clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 1050, ch. 435.

CHAPTER TWO—ENUMERATION

Art. 3936j. Justices of the peace and constables; counties having over 350,000 population

Section 1. In all counties in this State having a population in excess of three hundred fifty thousand (350,000) inhabitants, according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of the Justices of the Peace and Constables who are compensated on a salary basis at any reasonable sum provided such salaries shall not exceed Eight Thousand, Eight Hundred ($8,800.00) Dollars per annum each. Said salaries shall be paid in twelve (12) monthly installments, provided that the salaries of the Justices of the Peace and Constables from the effective date of this Act for the remainder of the year 1953 shall be paid in monthly installments on the basis of the annual salaries fixed by the Commissioners Court pursuant to this Act. The Commissioners Court shall not be required to fix the salaries in all precincts at equal amounts, but the Commissioners Court shall have discretion to determine the amount of salaries to be paid each Justice of the Peace and each Constable in the several precincts.

Sec. 2. The Commissioners Courts of such counties shall determine the number and fix the salaries of all deputies, clerks and other employees of such Justices of the Peace and Constables.

Sec. 3. Said Commissioners Court is hereby authorized to allow such monthly car allowance to such Justices of the Peace and Constables and to their deputies, clerks and other employees in the performance of their official duties as the Commissioners Court may deem necessary.

Sec. 4. 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 1953, 53rd Leg., p. 678, ch. 259.

Effective 90 days after May 27, 1953, date of adjournment.

Section 5 of the Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict only.

Title of Act:

An Act providing for salaries of certain Justices of the Peace and Constables; providing for the number and salaries of deputies of such Justices of the Peace and Constables; providing for car allowances; providing for a severability clause; repealing all laws in conflict herewith; and declaring an emergency. Acts 1953, 53rd Leg., p. 678, ch. 259.

Art. 3936k. Justices of the peace; increase of compensation by commissioners court

Section 1. The Commissioners Court in each county of this State having a population of one hundred fifty thousand (150,000) or under according to the last preceding Federal Census is hereby authorized, when in their judgment the financial condition of the county and the needs of the justices of the peace justify an increase, to enter an order increasing the compensation of such justices of peace to the amount which would comply with the above mentioned financial condition of the county and which order shall fall within the discretion of the Commissioners Court as the maximum sum to be allowed.

Sec. 2. The provisions of this Act shall be cumulative of all other laws pertaining to the compensation of justices of the peace.

Sec. 3. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity. Acts 1953, 53rd Leg., p. 690, ch. 265.

Emergency. Effective June 4, 1953.

Title of Act:

An Act allowing additional compensation for justices of the peace in certain counties; providing that this Act shall be cumulative of other laws pertaining to such compensation; providing for a severability clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 690, ch. 265.

TITLE 68—GARNISHMENT

CHAPTER THIRTEEN—NON-RESIDENT GUARDIAN AND WORDS

Art. 4285. 4256, 2753, 2671 Letters of guardianship

(1) Nonresident Guardians. When a guardian and his ward are nonresidents, such guardian may file, in the county or probate court of any county where all or part of said ward's estate is located, a written application for appointment as guardian of said estate situated in Texas, setting out the nature of such estate and the probable value thereof, together with a full and complete transcript from the records of a court of competent jurisdiction where said guardian resides, showing his appointment and qualification as guardian of such ward's estate, which transcript shall be certified by the clerk or legal custodian of the records of such court in which the proceedings were had, under the seal of such court if there be one, and to which transcript shall be annexed a certificate of the judge, chief justice, or presiding magistrate of such court, as the case may be, that the attestation of such transcript is in due form; and upon the filing of said application and transcript, the judge of such county or probate court, without notice or citation of any character, shall hear said application in due order of business, and, if he finds same to be in due form, shall enter an order appointing such applicant guardian of said ward's estate in Texas, fixing general bond as provided in Article 4141 and appointing appraisers as in ordinary cases. When such applicant has thus been appointed and has filed with the clerk his oath as guardian of said estate and has made and filed the required bond, bearing the judge's approval, the clerk shall issue Letters of Guard-

ianship of said estate, and the guardian thus qualified shall file inventory and appraisement as in ordinary cases and shall be subject to and shall have all powers, duties and obligations in accordance with all laws of this State applicable to resident guardians not in conflict herewith.

(2.) Validation of Certain Letters of Guardianship Heretofore Issued. All presently existing Letters of Guardianship heretofore issued under Article 4285 to nonresident guardians with or without the procedure, in whole or in part, and with or without notices and citations, required in cases of resident guardians are hereby validated as of their respective dates, in so far as the absence of such procedure, notices and citations are concerned, as are also all otherwise valid conveyances, mineral leases, and other acts of such guardians so qualified and acting in connection therewith under supporting orders of county and probate courts of this State; provided, however, that this provision shall not be applicable to any letters, conveyance, lease, or other act of such guardian which is involved in any lawsuit pending in this State on the effective date of this Act wherein the absence of such procedure or of such notices or citations is an issue. As amended Acts 1953, 53rd Leg., p. 104, ch. 70, § 1.

Emergency. Effective April 21, 1953.

TITLE 70—HEADS OF DEPARTMENTS

CHAPTER TWO—COMPTROLLER OF PUBLIC ACCOUNTS

Art. 4346. 4337 Custodian of obligations

Except as otherwise specifically provided, all deeds to the State, all liens, mortgages, bonds, notes, and other securities for money given to the State or any officer for the use of the State, contracts involving pecuniary obligations to the State, and all other documents or instruments creating a pecuniary obligation in favor of the State, shall be deposited in the office of the Comptroller, except that all deeds conveying land or interests in land to the State of Texas for highway purposes, shall hereafter be deposited in the offices of the State Highway Department at Austin, Texas. The Comptroller of Public Accounts is hereby directed to transfer to the State Highway Department all deeds and conveyances of land or interests in land to the State of Texas for highway purposes which have heretofore been filed and deposited in the office of the Comptroller of Public Accounts along with all files and filing equipment heretofore used by him in filing and maintaining such records. As amended Acts 1953, 53rd Leg., p. 587, ch. 229, § 1.

Emergency. Effective May 27, 1953.

Art. 4357. 4348 Auditing claims and issuing warrants

No warrant shall be prepared except on presentation to the warrant clerk of a properly audited claim, verified by affidavit to its correctness, the proper auditing of which claim shall be evidenced by the initials written thereon by the person auditing the same; and such claim so verified and audited shall be sufficient and the only authority for the preparation of a warrant or warrants. No claim shall be paid from appropriations unless presented to the Comptroller for payment within two (2)

years from the close of the fiscal year for which such appropriations were made, but any claim not presented for payment within such period may be presented to the Legislature as other claims for which no appropriations are available. No warrant shall be drawn against an appropriation of a special fund unless there is sufficient cash money in the fund in the State Treasury to pay such warrant, and no warrant, general or special, shall be released or delivered by the Comptroller unless there is sufficient balance in the appropriation against which the warrant is drawn to pay such warrant. When a claim has been audited and warrant drawn therefor, the claim shall be numbered with the same number as the warrant; and such claim shall be filed numerically according to class: "general," "special," "pension," respectively. The claims, as paid, shall be filed in such method as may be found most advisable to the Comptroller. After the expiration of two (2) years such claims shall be removed from the files and stored as records. As amended Acts 1953, 53rd Leg., p. 864, ch. 350, § 1.

Emergency. Effective June 8, 1953.

Art. 4358. 4349 Pay warrants

The Comptroller shall have printed uniform pay warrants, which shall be of three (3) classes: "general," "special," "pension." Such warrants shall be serially numbered and shall be of a color of paper different from the other class. A separate series of numbers may be used for warrants issued for payrolls to be paid from the General Revenue Fund, and for warrants issued for claims to be paid from "highway" or other special funds, when the Comptroller deems such special series of numbers advisable. Such warrants shall be prepared so as to provide for entering thereon in addition to other appropriate matters, the following:

1. Initials of the person in the Comptroller's Department comparing the warrant with the claim.

2. Designation of the fund against which the warrant is drawn.

3. Appropriation against which disbursement is to be charged. As amended Acts 1953, 53rd Leg., p. 864, ch. 350, § 1.

Art. 4359. 4350 Pay warrants register

The Comptroller shall provide a pay warrant register for each class of pay warrants, each volume of which shall be appropriately designated by class, number or otherwise. When a pay warrant is prepared, it shall be registered in the pay warrant register for the class to which it belongs; and such registry shall consist of an entry of the amount of the warrant, name of the payee, appropriation to which charged, and such other information as may be deemed advisable by the Comptroller. After a warrant has been prepared and registered as herein provided it shall be checked against the claim, and the warrant number shall be entered on the claim papers. The initials of the person checking the warrant with the claim shall be written on both the warrant and the claim, and the warrant together with the claim upon which it is based shall be passed to the Comptroller for his signature or the signature of such person as may be authorized by law to sign the same in his stead; and such warrant together with a copy of the warrant register shall then be passed to the State Treasury and registered in the Treasury, and signed by the State Treasurer or some person authorized by law to sign for him, and returned to the Comptroller's Department. Such warrant shall then be delivered by the Comptroller to the person entitled to receive it, and the Comptroller shall at his option take a receipt therefor and file the receipt

in his office. The Comptroller shall also keep a "warrants cancelled register" in which shall be entered the details of all warrants cancelled.

It is hereby provided that a department, court, school, or other state agency may prepare and present payroll claims to the Comptroller prior to the end of the payroll period, which said payroll claims shall be verified by affidavit as to services theretofore actually performed within such payroll period prior to the date of such payroll claims; and such payroll claims need not be verified by affidavit as to any services to be performed during such payroll period subsequent to the date of such payroll claims. Such claims when so presented shall be prepared and approved as otherwise provided below. The Comptroller shall accept such payroll claim when presented and prepare warrants in payment thereof prior to date such claims become due and payable, and hold such warrants for delivery until the claims become due and payable. Such warrants shall be dated as of the due date of the claim and shall not be delivered to the claimant until the end of the pay period. The Treasurer is hereby authorized to countersign such warrants and to make such entry as to properly take them into account. In order that such warrants may be ready for delivery at the end of the pay period the Comptroller is authorized to make such rules and regulations as may be necessary for filing payroll claims in advance of the pay period, and for the preparation and writing of warrants in payment thereof to adequately and properly achieve such purpose.

One person shall be designated by the Comptroller as Chief of the Claims Division, and such person shall prepare or be responsible for the preparation of all pay warrants, and shall be accountable to the Comptroller for warrants coming into his possession. As amended Acts 1953, 53rd Leg., p. 864, ch. 350, § 1.

Art. 4365. 4359 Duplicate warrants

The Comptroller, when satisfied that any original warrant drawn upon the State Treasurer has been lost or destroyed, or when any certificate or other evidence of indebtedness approved by the auditing board of the State has been lost, is authorized to issue a duplicate warrant in lieu of the original warrant or a duplicate or a copy of such certificate, or other evidence of indebtedness in lieu of such original; but no such duplicate warrant, or other evidence of indebtedness, shall issue until the applicant has filed with the Comptroller his affidavit, stating that he is the true owner of such instrument, and that the same is in fact lost or destroyed, and shall also file with the Comptroller his bond in double the amount of the claim with two or more good and sufficient sureties, payable to the Governor, to be approved by the Comptroller, and conditioned that the applicant will hold the State harmless and return to the Comptroller, upon demand being made therefor, such duplicates or copies, or the amount of money named therein, together with all costs that may accrue against the State on collecting the same. Provided, however, that any state department, court, school, school district, or other state agency, or federal agency, shall not be required to make bond for the issuance of duplicate warrants. The head of such state agency or federal agency and one other person connected with the handling of warrants for such agency shall be required to make the affidavit for duplicate to issue in case of lost or destroyed warrant belonging to such agency. After the issuance of said duplicate or copy if the Comptroller should ascertain that the same was improperly issued, or that the applicant or party to whom the same was issued was not the owner thereof,

he shall at once demand the return of said duplicate or copy if unpaid, or the amount paid out by the State, if so paid; and, upon failure of the party to return same or the amount of money called for, suit shall be instituted upon said bond in Travis County. As amended Acts 1953, 53rd Leg., p. 576, ch. 219, § 1.

Emergency. Effective May 27, 1953.

CHAPTER THREE—STATE TREASURER

Art. 4379b. Obligations of municipalities and political subdivisions may be made payable at State Treasurer's office

Commission for receiving and disbursing funds

Sec. 3. The State Treasurer shall collect for the use of the State, from said municipality or political subdivision for receiving and disbursing such funds, a commission of one-eighth of one per cent on interest, and one-twentieth of one per cent on principal; provided, however, such exchange or commission on any interest payment date or interest-principal payment date shall never be less than Two Dollars and Fifty Cents ($2.50). The Treasurer of said municipality or political subdivision shall remit to the State Treasurer as ex-officio Treasurer of said municipality or political subdivision, the exchange or commission as herein provided at the time of such remittance for the payment of any maturing obligation or interest thereon. Upon receipt of such exchange or commission paid by the municipalities or political subdivisions, the State Treasurer shall credit the same to the commissions and exchanges earned, and all commissions and exchanges earned, or so much as necessary, are hereby appropriated to the State Treasurer to be used by him in the administration of the provisions of this Act. Any balance remaining at the end of any fiscal year shall be available for use in the next fiscal year. As amended Acts 1953, 53rd Leg., p. 856, ch. 347, § 1.

Emergency. Effective June 8, 1953.

Art. 4382. 4381 Register of warrants issued

The Treasurer shall keep registers of warrants issued, one for each class of warrants. The Comptroller shall furnish lists of warrants issued, which lists shall be compared with the warrants and shall constitute the Treasurer's registers of warrants issued. The amounts of warrants issued shall be added by the Treasurer and proved against the totals of the warrant registers. The date of payment of all warrants shall be stamped on the above registers. The Treasurer shall keep a 'warrants paid register.' In this register the warrants shall be entered each day when paid, the number and amount of each warrant paid being entered. Warrants shall be grouped by classes and separate totals of warrants paid from each class shall be shown, as well as the grand total of all warrants paid each day. The Treasurer shall furnish to the Comptroller each day a copy of the warrants paid register showing the warrants

paid. The Treasurer shall keep a register of warrants cancelled, on which shall be entered the details of all warrants cancelled. As amended Acts Acts 1953, 53rd Leg., p. 714, ch. 277, § 1.

Emergency. Effective June 4, 1953.

Art. 4382a. Substitute for warrants paid register

The State Treasurer may, with the consent of the Comptroller of Public Accounts, substitute a recapitulation of the totals of warrants paid each day for the copy of the warrants paid register which denotes each warrant paid each day, and which is now required by Article 4382. Added Acts 1953, 53rd Leg., p. 715, ch. 278, § 1.

Emergency. Effective June 4, 1953.

Section 2 of the Act of 1953 provided that partial unconstitutionality should not affect the remainder of the Act.

Art. 4386. Certain special funds abolished

Acts 1935, 44th Leg., p. 798, ch. 341, creating a commission to administer certain funds of the Spanish War Veterans, was repealed by Acts 1953, 53rd Leg., p. 25, ch. 17, § 1, effective, 90 days after May 27, 1953, date of adjournment.

Art. 4386c. Special Department of Agriculture Fund

Consolidation of funds

Section 1. All moneys now on deposit in the State Treasury to the credit of the Citrus Fruit Inspection Fund, the Pure Bred Cottonseed Inspection Fund, the 2–4–D License Fund, the Herbicide Fund, Texas Vegetable Certification Fund, the Seed Laboratory Fee Account, the Nursery Inspection Fee Account, the Weights and Measures Fee Account, the Charter Filing Fee Account, the Antifreeze Registration Fee Account and the Insecticide and Fungicide Fee Account, together with all moneys owing or due said Funds and Fee Accounts, shall be transferred, deposited, and consolidated into a single Fund, in the State Treasury to be known as the Special Department of Agriculture Fund.

Deposits to credit of fund

Sec. 2. All moneys collected or received by the Texas Department of Agriculture, after the effective date of this Act, from any source now requiring that such moneys be deposited in the State Treasury to the credit of any of the Funds or Fee Accounts named in Section 1 of this Act, shall be deposited in the State Treasury to the credit of the Special Department of Agriculture Fund.

Use of fund

Sec. 3. The Special Department of Agriculture Fund shall be used for the aggregate purposes for which the Funds and Fee Accounts named in Section 1 are now directed by law to be used.

Proceeds of sales

Sec. 4. All moneys derived from the sale of any property purchased out of any Fund, or Fee Accounts and Funds, referred to in Section 1 of this Act, or out of the Special Department of Agriculture Fund, after cost of advertising for sale has been deducted, shall be deposited in the State Treasury to the credit of the Special Department of Agriculture Fund.

Effective date

Sec. 5. This Act shall be effective September 1, 1953.

Expenditures; affidavits; warrants

Sec. 6. All expenditures made by the Texas Department of Agriculture out of the Special Department of Agriculture Fund shall be verified by affidavit to the Texas Department of Agriculture and on approval of such expenditures by the Commissioner of Agriculture or his designated representative, it shall be the duty of the Comptroller of the State to draw his warrant on the State Treasurer for the amount of such expenditures in favor of the person claiming the same, such warrant to be paid out of the Special Department of Agriculture Fund.

Repeal; purposes of fund

Sec. 7. All laws or parts of laws in conflict with this Act are hereby repealed. It is expressly provided that all of the purposes for which the several Funds and Fee Accounts named in Section 1 shall be applied in the aggregate to the Special Department of Agriculture Fund. Acts 1953, 53rd Leg., p. 99, ch. 65.

Emergency. Effective Sept. 1, 1953.

Art. 4386d. Youth Development Council Fund

Section 1. There is created in the Treasury a special fund to be known as the "Youth Development Council Fund" for the purposes hereinafter provided. Acts 1953, 53rd Leg., p. 927, ch. 387.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the Act of 1953 transferred accumulated and unappropriated balances in other funds to the youth development council fund. Sections 3, 4 and 4a made appropriations from such fund. Section 5 repealed conflicting laws or parts of laws. Section 6 provided that partial invalidity should not affect the validity of the remaining portions of the act.

Title of Act:

An Act creating in the Treasury a Youth Development Council Fund, providing for the transfer of the accumulated balances from the Old Age Assistance Fund, Children's Assistance Fund, and the Blind Assistance Fund to the Youth Development Fund and appropriating a portion of the same to the Gainesville State School for Girls, to the Youth Development Council Central Office and the Youth Development Council; repealing all laws or parts of laws in conflict; providing a severability clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 927, ch. 387.

Art. 4393b. Suspense and trust fund refund warrants; void after 4 years; transfer of sums represented; subsequent claims

Section 1(a). Warrants issued by the Comptroller of Public Accounts in payment of refunds from any suspense or trust fund in the State Treasury, commonly known as Suspense and Trust Fund Refund Warrants, shall become void unless presented to the State Treasurer for payment within four (4) years from the end of the fiscal year in which the warrant was issued. All such warrants now outstanding and unpaid according to the records of the State Treasurer and issued prior to September 1, 1948, shall be voided as of the effective date of this Act. The sums of money represented by such unpaid warrants that are voided in accordance with the provisions of this Section, shall be transferred by the Comptroller from the various Suspense Funds from which the warrants were originally issued to the General Revenue Fund of this State and shall become a part of that fund. Claims for the payment of such warrants voided under the provisions of this Act may be presented to the Legislature for appropriation to be made from which said warrants may be paid. Nothing in this Act shall affect in any way whatsoever the existing laws regulating the payment of other types or classes of warrants issued by the Comptroller of Public Accounts.

(b) When the transfers of moneys herein referred to are made, the State Treasurer shall prepare a list of the outstanding warrants representing such transfers, such list to show the name of the payee, the date of the original warrant, the departmental suspense account against which the warrant was originally drawn, the original warrant number and the amount of the original warrant. Such list shall be maintained as a permanent record in the office of the State Treasurer and proper notation shall be made on each entry on this list when and if the Legislature makes appropriation for the refund of the amounts so listed.

Sec. 2. If any word, phrase, clause, section, paragraph, or sentence of this Act shall be declared unconstitutional, it is hereby declared to be the intention of the Legislature that the remainder of such Act shall not be affected thereby and shall remain in full force and effect. Acts 1953, 53rd Leg., p. 370, ch. 96.

Emergency. Effective May 1, 1953.

Title of Act:

An Act to provide for a limitation statute on suspense and trust fund refund warrants drawn by the Comptroller of Public Accounts; to provide for disposition of any moneys represented by warrants voided by this Act; to provide for certain records in the office of the State Treasurer; to provide a saving clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 370, ch. 96.

CHAPTER 7. INTERAGENCY COOPERATION [NEW]

Art. 4413(32). Cooperation by state departments and agencies

Short title

Section 1. This Act may be referred to as "The Interagency Cooperation Act."

Agency defined

Sec. 2. When used in this Act the word "agency" includes department, board, bureau, commission, court, office, authority, council, institution, university, college, and any service or part of a State institution of higher education.

Authority to contract to furnish services; reimbursement of cost

Sec. 3. Any State agency may enter into and perform a written agreement or contract with other agencies of the State for furnishing necessary and authorized special or technical services, including the services of employees, the services of materials, or the services of equipment. The actual cost of rendering the services, or the nearest estimate of the cost that is practicable, shall be reimbursed, except in case of service rendered in the fields of national defense or disaster relief, or in cooperative efforts, proposed by the Governor, to promote the economic development of the State. Provided, however, nothing herein shall authorize any agency to construct any highway, street, road, or other building or structure for any other agency, except as otherwise specifically authorized by existing law. Provided, however, no agency shall supply any services, supplies, or materials to another agency which are required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder.

Written agreement or contract

Sec. 4. Before any services may be rendered or received, a written agreement or contract shall be entered into, specifying the kinds and amounts of services to be rendered, the bases for calculating reimburseable costs, and the maximum amount of the costs during the time period covered by the agreement. In emergency situations for the defense or safety of the civil population, or in planning and preparation therefor, or in cooperative efforts, proposed by the Governor, for the economic development of the State, or where the amount involved is less than Twenty-five Dollars ($25), no written contract or advance approval by the Board of Control is required. To be valid, the written agreement or contract must have the advance approval of the administrator of the State agencies which are parties thereto, and of the Board of Control.

Restrictions on contracts; review by Board of Control

Sec. 5. No agreement or contract may be entered into or performed which will require or permit an agency of the State to exceed its constitutional or statutory duties and responsibilities, or the limitations of its appropriated funds. In reviewing proposed agreements or contracts of the character described in this Act, the Board of Control is authorized and directed to consider the following factors, which shall not be construed to be exclusive:

(a) Whether the services specified are necessary and essential for activities and work that are properly within the statutory functions and programs of the affected agencies of the State Government;

(b) Whether the proposed arrangements serve the interests of efficient and economical administration of the State Government; and

(c) Whether the specified bases for reimbursing actual costs are fair, equitable, and realistic and in conformity with the limitations of funds prescribed in the current appropriations act or other applicable statutes.

Payments

Sec. 6. Payments for such services by a receiving agency shall be made from the appropriation items or accounts of the receiving agency from which like expenditures would normally be made, based upon vouchers drawn for this purpose by the receiving agency payable to the furnishing agency. Payments received by the State agency performing the services shall be credited to that State agency's current appropriation items or accounts from which the expenditures of that character were originally made. Payments for intraagency transactions shall be handled in the same manner as interagency transactions or by interdivisional transfer of funds on the records of the agency concerned, subject to the applicable provisions of the biennial appropriations act.

Summary included in board's annual report

Sec. 7. A summary of all such agreements or contracts entered into during any fiscal year by State departments or agencies and aggregating over One Hundred Dollars ($100), including descriptions of the purposes of the agreements or contracts, names of the State agencies involved, time period covered, and amounts of reimbursement, shall be included in the Board of Control's annual report. Acts 1953, 53rd Leg., p. 841, ch. 340.

Emergency. Effective June 8, 1953.

TITLE 71—HEALTH—PUBLIC

CHAPTER ONE—HEALTH BOARDS AND LAWS

Art. 4437c—1. Lease of city hospital

The governing body of any incorporated city or town (including home rule cities) having a population of twenty-five thousand (25,000) inhabitants or less, according to the last preceding Federal Census, is hereby authorized to lease any city-owned hospital, or part thereof, to be operated by the lessee as a public hospital under such terms and conditions as may be agreed upon by such governing body and such lessee. Any such lease shall be authorized by ordinance or resolution adopted by such governing body, and the lease agreement shall be executed, on behalf of the city or town, by the mayor and the city secretary or clerk, and the seal of the city shall be impressed thereon. Such lease may cover any period of time not to exceed fifty (50) years. Acts 1953, 53rd Leg., p. 20, ch. 11, § 1.

Emergency. Effective Feb. 23, 1953.

Title of Act:

An Act authorizing the governing body of any incorporated city or town (including home rule cities) having a population of twenty-five thousand (25,000) inhabitants or less, according to the last preceding Federal Census, to lease any city-owned hospital, or part thereof, to be operated by the lessee as a public hospital under such terms and conditions as may be agreed upon by such governing body and lessee; providing for the authorization and execution of the lease and lease agreement; providing the term to be covered by such lease; and declaring an emergency. Acts 1953, 53rd Leg., p. 20, ch. 11.

Art. 4442b. Repealed. Acts 1953, 53rd Leg., p. 1005, ch. 413, § 16. Eff. June 9, 1953

Art. 4442c. Convalescent and nursing homes and related institutions

Purpose

Section 1. The purpose of this Act and the Licensing Agency created herein is to promote the public health, safety and welfare by providing for the development, establishment and enforcement of standards; (1) for the treatment of individuals in institutions of the character defined and covered herein; and (2) for the establishment, construction, maintenance and operation of such institutions which in the light of advancing knowledge will promote safe and adequate treatment of individuals in institutions.

Definitions

Sec. 2. As used in this Act:

(a) "Institution" means an establishment which furnishes (in single or multiple facilities) food and shelter to four (4) or more persons unrelated to the proprietor, and, in addition, provides minor treatment or services which meet some need beyond the basic provision of food, shelter, and laundry. Nothing in this Act shall apply to hotels or other similar places that furnish only food and lodging, or either, to their guests. And provided further that the provisions of this Act shall not apply to any

regularly operated hospital, which is defined as follows: Hospital is an institution for the treatment of the sick and which is organized, managed and personnelled to supply scientifically and efficiently all or any recognized part of the completion requirements for the preservation, diagnosis and treatment of physical, mental and the medical aspects of ills, disorders or abnormalities, with functioning facilities in the many special professional, technical and economic fields essential to the discharge of its proper functions, and with adequate contacts with physicians for the care and treatment of any disease or disorder, mental or physical, or any physical deformity or injury. The provisions of this Act shall not apply to any nursing home conducted by or for the adherents of any well recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend exclusively upon prayer or spiritual means for healing, without the use of any drug or material remedy, provided safety, sanitary and quarantine laws and regulations are complied with.

(b) "Person" means any individual, firm, partnership, corporation, association, or joint stock association, and the legal successor thereof.

(c) "Government unit" means the State or any county, municipality or other political subdivision, or any department, division, board, or other agency of any of the foregoing.

(d) "Licensing Agency" means the State Department of Public Health.

Licensure

Sec. 3. After the effective date of this law no person or governmental unit, acting severally or jointly with any other person or governmental unit, shall establish or conduct or maintain an institution, as defined herein, in this State without obtaining a license pursuant to the provisions of this Act.

Application for license

Sec. 4. An application for a license shall be made to the Licensing Agency upon forms provided by it and contain such information as the Licensing Agency requires which may include affirmative evidence of ability to comply with reasonable standards, rules and regulations as are lawfully prescribed hereunder. The application shall be accompanied by a license fee which shall be in the sum of Twenty-five Dollars ($25) plus One Dollar ($1) for each unit of capacity or bed space for which a license is sought. Such license fee shall be paid annually in said amount with each application for renewal of the institution's license. All license fees collected shall be deposited with the State Treasury to the credit of the Licensing Agency and said license fees are hereby appropriated to said Agency for its use in the administration and enforcement of this Act.

Upon receipt of an application for a license the Licensing Agency shall issue a license if upon inspection and investigation it finds that the applicant and facilities meet the requirements established under this law. A license, unless suspended or revoked, shall be renewed annually upon tender of the annual license fee together with the filing by the licensee and approval by the Licensing Agency of an annual report upon such date and containing such information in such form as the Licensing Agency prescribes by regulation. Such license shall be issued only for the premises and persons or governmental units and for the maximum number of beds named in the application and shall not be transferable or assignable. Any increase in the bed space above the maximum approved is subject to approval by the Licensing Agency and subject to additional

fee. Any violation of these provisions shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties provided for in Section 12 of this Act.

Inspection

Sec. 5. The Licensing Agency or its duly authorized representative shall have the right to enter upon the premises at all reasonable times in order to make whatever inspection it deems necessary in accordance with the rules and regulations prescribed by the Licensing Agency. Licenses shall be posted in a conspicuous place on the licensed premises.

Denial or revocation of license; hearings and review

Sec. 6. The Licensing Agency, after providing notice and opportunity for hearing to the applicant or licensee, is authorized to deny, suspend, or revoke the license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this law. The notice to the licensee shall be effected by registered mail or by personal service, and it shall set forth the particular reasons for the proposed action and fix a date, not less than thirty (30) days from the date of such mailing or service, at which the applicant or licensee shall be given an opportunity for a prompt and fair hearing. On the basis of any such hearing or upon default of the licensee, the Licensing Agency shall make a written determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision revoking, suspending or denying the license or application shall become final thirty (30) days after it is so mailed or served unless the applicant or licensee within such thirty (30) day period appeals the decision to the District Court pursuant to the provisions of this law.

This procedure governing the hearing authorized by this Section shall be in accordance with rules promulgated by the Licensing Agency. A full and complete record shall be kept of all procedures in accordance with rules promulgated by the Licensing Agency. Witnesses may be subpcenaed by either party and their testimony taken in person, or by deposition under such regulations and for such purposes as the Licensing Agency may prescribe in its rules of procedure.

Rules, regulations and enforcements

Sec. 7. The Licensing Agency is authorized to adopt, amend, promulgate, publish and enforce minimum standards in relation to:

(a) Construction of the home or institution, including plumbing, heating, lighting, ventilation and other housing conditions, which shall insure the health, safety and comfort of residents and protection from fire hazard;

(b) Regulate the number and qualification of all personnel, including management and nursing personnel, having responsibility for any part of the care given to residents;

(c) All sanitary and related conditions within the nursing home and its surroundings, including water supply, sewage disposal, food handling and general hygiene, which shall insure the health, safety and comfort of the residents;

(d) Diet related to the needs of each resident and based upon good nutritional practice or on recommendations which may be made by the physician attending the resident;

(e) Equipment essential to the health and welfare of the residents.

The Licensing Agency is further authorized to provide for advice to and coordination of its personnel and facilities with any local agency of a city or county where such city or county shall see fit to supplement the State program with further regulations required to meet local conditions.

Compliance by Institutions in Operation

Sec. 8. An institution which is in operation at the time of the promulgation of any rules or regulations or standards in accordance with this Act shall be given a reasonable time in accordance with rules and regulations set up by the Licensing Agency within which to comply with such rules or regulations or standards.

Inspections and Consultations

Sec. 9. The Licensing Agency shall make or cause to be made such inspections and investigations as it deems necessary. It is further provided that the Licensing Agency shall wherever possible utilize the services and consultation of other State and local agencies in carrying out its responsibility under the provisions of this Act and shall use wherever possible the facilities of the State Department of Public Welfare especially in setting up and maintaining standards with reference to the humane treatment of the individuals in the institutions.

The Licensing Agency is hereby given the authority to cooperate with local public health officials of any county or incorporated city in carrying out the provisions of this Act and may in its discretion delegate to said local authorities the power to make the inspections and recommendations to the Licensing Agency in accordance with the terms and provisions of this Act.

Judicial Review

Sec. 10. Any applicant or licensee aggrieved by the decision of the Licensing Agency, after a hearing, may within thirty (30) days after the mailing or service of notice of the decision as provided in Section 6, file a notice of appeal in the District Court of the county in which the institution is located or to be located, and serve a copy of the notice of appeal upon the Licensing Agency. Thereupon the Licensing Agency shall promptly certify and file with the Court a copy of the record and decisions including the transcript of the hearings on which the decision is based. The court may affirm, modify, or reverse the decision of the Licensing Agency and either the applicant or licensee or the Licensing Agency or State may apply for such further review as is provided by law. Such trial shall be de novo in the District Court. Pending final disposition of the matter, the status quo of the applicant or licensee shall be preserved except as the Court otherwise orders in the public interest for the welfare and safeguard of the persons in the institution.

Injunction

Sec. 11. Notwithstanding the existence or pursuit of any other remedy, the Licensing Agency may in the manner provided by law upon the advice of the County or District Attorney or upon their failure or refusal to act the Attorney General, who is representing the Licensing Agency in the proceedings, maintain an action in the name of the State for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management, or operation of an institution without a license under this law.

Penalties

Sec. 12. Any person establishing, conducting, managing, or operating any institution without a license under this law shall be guilty of a mis-

demeanor and upon conviction shall be fined not more than Two Hundred Dollars ($200) for the first offense and not more than One Hundred Dollars ($100) for each subsequent offense, and each day of a continuing violation after conviction shall be considered a separate offense.

Information Confidential

Sec. 13. Information received by the Licensing Agency through filed reports, inspection, or as otherwise authorized under this law shall not be disclosed publicly, except as authorized elsewhere in this Act, in such manner as to identify individuals or institutions as defined herein except in a proceeding involving the question of licensure.

Annual Report of Licensing Agency and Directory

Sec. 14. (a) The Licensing Agency shall prepare annually a full report of the operation and administration of the Act together with such recommendations and suggestions as it deems advisable, and such report shall be submitted to the Governor and the Legislature not later than the first day of October each year.

(b) The Licensing Agency shall prepare and publish annually and keep current a directory of all licensed institutions coming within the purview of this Act. The directory shall contain the name and address of the institution, the name of the proprietor or sponsoring organization, and such other pertinent data which the Licensing Agency considers to be useful and beneficial to those persons interested in institutions operated in accordance with provisions of this law. Copies of the directory shall be made available to the public.

Federal funds; personnel

Sec. 15. Provided that in addition to the appropriation of the fees for the purpose of carrying out the provisions of this Act, the Licensing Agency is authorized to accept from the Federal Government any funds that may be allocated by said Government to the Licensing Agency for administrative expenses; and the said Licensing Agency can use such funds so allocated in addition to the fees appropriated for the purpose of carrying out the provisions of this Act.

The Licensing Agency is hereby authorized and empowered to employ such personnel as is necessary for properly administering the provisions of this Act. Acts 1953, 53rd Leg., p. 1005, ch. 413.

Emergency. Effective June 9, 1953.

Section 16 of the Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict, and specifically repealed Vernon's Ann.Civ.St. art. 4442b, and Vernon's Ann.P.C. art. 701b. Section 17 provided that partial invalidity should not affect the validity of the remaining portions of the Act.

CHAPTER FIVE—COUNTY HOSPITAL

Art.
4478a. Intervals between elections [New].
4494n. County hospital districts; counties of 190,000 and Galveston county [New].

Art. 4478a. Intervals between elections

The provision contained in Article 4478, Revised Civil Statutes of Texas of 1925, which restricts the presentation of petitions to the Commissioners Court of a county for the establishment of a county hospital to intervals of not less than twelve (12) months shall not be applica-

ble to counties which at the time of presentation of any such petition have no county-owned hospital. Provided however that nothing in this Article will permit the Commissioners Court to submit a bond election for the above purposes to the voters of their respective county more than twice in any twelve-month period. Acts 1953, 53rd Leg., p. 13, ch. 18, § 1.

Emergency. Effective Feb. 18, 1953.

Title of Act:

An Act providing that the provision of Article 4478, Revised Civil Statutes of Texas of 1925, restricting the presentation of petitions to the Commissioners Court for the establishment of a county hospital to intervals of not less than twelve (12) months shall not be applicable to counties which at the time of presentation of any such petition have no county-owned hospital; prohibiting the submission of a bond election to the voters more than twice in any twelve-month period; and declaring an emergency. Acts 1953, 53rd Leg., p. 13, ch. 8.

Art. 4492. Contracts with cities

Section 1. Any Commissioners Court may cooperate with and join the proper authorities of any city having a population of ten thousand (10,000) persons or more in the establishment, building, equipment and maintenance of a hospital in said city, and to appropriate such funds as may be determined by said Court, after joint conference with the authorities of such city or town, and the management of such hospital shall be under the joint control of such Court and city authorities.

Sec. 2. Any Commissioners Court may cooperate with and join the proper authorities of any two (2) or more cities in the establishment, building, equipment and maintenance of a hospital in said county, and to appropriate such funds as may be determined by said Court, after a joint conference with the authorities of such cities or towns, and the management of such hospital shall be under the joint control of such Court and city authorities. As amended Acts 1953, 53rd Leg., p. 526, ch. 190, § 1.

Emergency. Effective May 19, 1953.

Section 2 of the amendatory Act of 1953 repealed all conflicting laws and parts of laws.

Art. 4494n. County hospital districts; Counties of 190,000 and Galveston county

Creation of district

Section 1. Any county having a population of 190,000 or more, and Galveston County, according to the last preceding Federal Census, that does not own or operate or that does own and operate a hospital or hospital system by itself or jointly with a city for indigent and needy persons may be constituted a hospital district to take over the hospital or hospital system, either owned separately by a county or jointly with a city and thereafter operate and administer such hospital or hospital system by furnishing medical aid and hospital care to the indigent and needy persons residing in said hospital district; provided, however, that such district shall not be created unless and until an election is duly held in said county, which said election may be initiated by the Commissioners Court upon its own motion or upon a petition of 100 resident qualified property tax paying voters to be held not less than 30 days from the time said election is ordered by the Commissioners Court. At said election there shall be submitted to the qualified property taxpaying voters the proposition of whether or not a hospital district shall be created in the county, and a majority of the qualified property taxpaying voters participating in

said election voting in favor of the proposition shall be necessary. The ballots shall have printed thereon:

"FOR the creation of a hospital district; providing for the levy of a tax not to exceed Seventy-five (75¢) Cents on the One Hundred ($100.00) Dollars valuation;" and

"AGAINST the creation of a hospital district; providing for the levy of a tax not to exceed Seventy-five (75¢) Cents on the One Hundred ($100.00) Dollars valuation."

If there are any outstanding bonds, then there shall be added to such proposition the assumption of the bonds by said district. A hospital district created shall be known as ———————————— County Hospital District.

Taxes and bonds of district

Sec. 2. The Commissioners Court of any county which has voted to create a hospital district shall have the power and the authority to levy for the benefit of the district along with county taxes, using the same values and the same tax roll, a tax of not to exceed Seventy-five (75¢) Cents on the One Hundred ($100.00) Dollars valuation on all taxable property within the district for the purpose of creating a sinking fund to pay the outstanding bonded indebtedness assumed as herein provided and to pay the interest and sinking fund requirements on hospital bonds that may have been issued by the city or county, either or both of them. The district shall have the power and authority to issue and sell bonds for the acquisition, purchase, construction, equipment, enlargement, operation, and maintenance of the hospital or hospital system; provided however, that a sufficient tax shall be levied to provide an interest and sinking fund to meet the maturities, which said tax shall be a part of the Seventy-five (75¢) Cents tax herein authorized. Any bonds issued by such district must, however, be authorized by a vote of the legally qualified property taxpaying voters residing in such district as in the case of bonds issued by other political sub-divisions of the State.

County or city property; transfer to district

Sec. 3. Any lands, buildings, or equipment that may be jointly or separately owned by such county and city where such medical services and hospital care are furnished to the indigent or needy persons of the city and county, shall become the property of the hospital district, and title thereto shall vest in the district; provided however, that any outstanding bonded indebtedness incurred by the city or county, either or both of them, in the acquisition of the lands, buildings, and equipment or in the construction and equipping of such hospital facilities shall be assumed by the hospital district and become the obligation of the district; and the city or county, either or both of them, that issued such bonds, shall be relieved of any further liability for the payment thereof. The Commissioners Court and the city where a hospital or hospital system is jointly owned and operated, or the Commissioners Court where the county owns the hospital or hospital system, as the case may be, shall execute and deliver to the hospital district an instrument in writing, conveying to said district the hospital property, including lands, buildings, and equipment.

Board of hospital managers

Sec. 4. The Commissioners Court, unless otherwise provided by Act of the Legislature, shall appoint a Board of Hospital Managers consisting of not less than five (5) nor more than seven (7) members who shall serve, for a term of two years with overlapping terms, if desired, with

initial appointments to terms of office arranged accordingly, without pay, and whose duties shall be to manage, control, and administer the hospital or hospital system of the district in accordance with the laws of the State. The Board of Managers shall have the power and authority to promulgate rules and regulations for the operation of the hospital or hospital system and shall employ such doctors, technicians, nurses, and employees as may be deemed advisable for the efficient operation of the hospital or hospital system. The Board shall be responsible to the Commissioners Court for the operation of the hospital, and individual members may be removed for cause. The county auditor shall disburse the funds of the district upon orders of the Board unless the Board orders otherwise.

Hospital advisory board in counties of 800,000 population

Sec. 4-A. There is hereby created a Hospital Advisory Board in all counties in this State having a population of 800,000 or more according to the last preceding or any future Federal Census, which shall be composed of the Mayors of all of the incorporated cities in such county. Such Advisory Board shall organize by electing a chairman and a secretary, and shall meet at such times and places as such Advisory Board may deem necessary.

Provided that in any county having a population of 800,000 or more according to the last preceding or any future Federal Census, the Board of Hospital Managers shall consist of seven members, three of whom shall be appointed by the Commissioners Court of said county, and three of whom shall be appointed by the Hospital Advisory Board heretofore created, and the seventh member of such Board shall be appointed in a joint session of the Commissioners Court and the Hospital Advisory Board. Said Board shall elect its own chairman. Otherwise, the said Board of Hospital Managers shall function as provided in other sections of this Act.

Provided further, that the said Board of Managers shall be responsible jointly to the Commissioners Court and to the governing body of such cities in said county, and individual members may be removed for cause by said Commissioners Court and said governing body in joint session.

County and city taxes

Sec. 5. No county that has been constituted a hospital district, and no city therein shall thereafter levy any tax for hospital purposes and such district shall be deemed to have assumed full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said district. Acts 1953, 53rd Leg., p. 691, ch. 266.

Emergency. Approved June 4, 1953.

Effective upon adoption of constitutional amendment, Const. art. IX, sec. 4, proposed by Senate Joint Resolution No. 2, 53rd Legislature, 1953, authorizing the Legislature to create county-wide hospital districts in counties having a population in excess of 190,000 and in Galveston County, to be voted on at the General Election in November, 1954, as provided in Acts 1953, 53rd Leg., p. 691, ch. 266, § 6.

CHAPTER SIX—MEDICINE

Art. 4498a. Registration of practitioners and interns; fees

Section 1. It shall be the duty of all persons now lawfully qualified to practice medicine in this State as defined in Article 4510, Revised Civil Statutes of 1925, or who shall hereafter be licensed for such practice by the Texas State Board of Medical Examiners, to be registered as such practitioners with the Texas State Board of Medical Examiners on or before the First day of January, A.D., 1932, and thereafter to register in like manner annually, on or before the First day of January of each succeeding year. Each person so registering with the Texas State Board of Medical Examiners shall pay, in connection with each annual registration and for the receipt hereinafter provided for, a fee of Five Dollars ($5), which fee shall accompany the application of every such person for such registration. Such payment shall be made to the Texas State Board of Medical Examiners. Every person so registering shall file with the Texas State Board of Medical Examiners a written application for annual registration, setting forth his full name, his age, his Post Office address, his place of residence, the county or counties in which his certificate entitling him to practice medicine has been registered, and the place or places where he is engaged in the practice of medicine, as well as the school of medicine to which he professes to belong and the number and date of his license certificate. All persons desiring to serve as interns or residents at hospitals in this State shall register with the Texas State Board of Medical Examiners within thirty (30) days after beginning their service as a resident or intern, and shall pay a registration fee of One Dollar ($1) to the Texas State Board of Medical Examiners. Upon termination of said internship or residency, notification of such termination shall be given within thirty (30) days to the Texas State Board of Medical Examiners. Registration as an intern or resident does not authorize the practice of medicine as defined by law unless the other provisions regulating the practice of medicine have been complied with.

When a licensee under this Act shall have failed to pay his annual registration fee by March 1st, it shall be the duty of the Board, acting through its Secretary, to notify such licensee at his last known address by registered mail that his annual registration fee is due and unpaid. Fifteen (15) days after date of mailing such notice, it shall be the duty of the Board, acting through its Secretary, to suspend his license for nonpayment of the annual registration fee and to notify such licensee of such suspension by registered letter addressed to his last known address. If the said registration fee is not then paid within thirty (30) days from date of such notice of suspension, the Board shall then cancel such license. Practicing medicine as defined in Article 4510, Revised Civil Statutes of Texas, without an annual registration receipt for the current year as provided herein shall have the same force and effect and be subject to all penalties of practicing medicine without a license. After the Board shall have declared a license cancelled as provided herein, the Board may thereafter in its discretion refuse to issue a new license until such licensee has passed the regular examination for license as provided in this Act.

Upon receipt of such application, accompanied by the registration fee of Five Dollars ($5), the Texas State Board of Medical 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 medicine in this State, shall issue to the applicant an annual registration receipt, certifying 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 medicine within the State of Texas, unless he has in fact been previously licensed as such practitioner by the Texas State Board of Medical 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 medicine is in full force and effect; and provided further that, in any prosecution for the unlawful practice of medicine as denounced in Chapter 6, Title 12, of the Penal Code of Texas, such receipt showing payment of the annual registration fee required by this Act shall not be treated as evidence that the holder thereof is lawfully entitled to practice medicine.

Section 3. All annual registration fees collected by the Texas State Board of Medical Examiners under this Act shall be placed in the State Treasury, to the credit of a special fund to be known as the "Medical Registration Fund," and the Comptroller shall upon requisition of the Board from time to time draw warrants upon the State Treasurer for the amounts specified in such requisition; provided, however, the fees from this Medical Registration Fund shall be expended as specified by itemized appropriation in the General Departmental Appropriation Bill, and shall be used by the Texas State Board of Medical Examiners, and under its direction, in the enforcement of the laws of this State prohibiting the unlawful practice of medicine, and in the dissemination of information to prevent the violation of such laws and to aid in the prosecution of those who violate such laws. The Texas State Board of Medical 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 the laws of the State prohibiting the unlawful practice of medicine, 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.

In performing the duties devolved by this Act upon the Board of Medical Examiners, said Board shall act through the Secretary-Treasurer of the Board of Medical Examiners. The Secretary-Treasurer shall receive a salary to be fixed by the Legislature in its General Appropriation Bill for the performance of such duties under this Act, and shall make and file a surety bond in favor of the Texas State Board of Medical Examiners in the sum of not less than Ten Thousand Dollars ($10,000), conditioned that he will faithfully discharge the duties of his office. Such salary shall be paid out of said "Medical Registration Fund" and shall not be, in any way, a charge upon the general revenue of the State. The Texas State Board of Medical Examiners shall employ and provide such clerks and employees as may be necessary to assist the Secretary-Treasurer in performing his duties and in carrying out the purposes of this Act; provided, that the compensation of all persons authorized to be employed under this chapter, shall be paid only out of said "Medical Registration Fund." All disbursements from said fund shall be made only upon writ-

ten approval of the President and Secretary-Treasurer of the State Board of Medical Examiners and upon warrants drawn by the Comptroller to be paid out of said fund.

Sec. 4. The annual registration fee shall apply to all persons licensed by the Texas State Board of Medical Examiners, whether or not they are practicing within the borders of this State. As amended Acts 1953, 53rd Leg., p. 1029, ch. 426, § 1.

Emergency. Effective June 13, 1953.

Section 8 of the Act of 1953 repealed Articles 4507 and 4508. Section 13 repealed conflicting laws and parts of laws. Section 14 provided that partial invalidity should not affect the remaining parts of the Act.

Art. 4499. 5737 Medical Register

It shall be the duty of every district clerk to keep as a permanent record of his office a book of suitable size, to be known as the "Medical Register," and shall record therein all licenses to practice medicine issued by the Texas State Board of Medical Examiners which shall be presented to him for registration and all matters and things required by the preceding Article to be recorded, and shall, as required by law, make therein notation of the cancellation of licenses so registered, and of the death or removal from the county of physicians whose licenses are so registered. When the Texas State Board of Medical Examiners or any district court shall revoke, suspend or cancel the license of any person to practice medicine, the said clerk shall, if said license is registered in his county, note the revocation, suspension or cancellation of such license upon the Medical Register of such county, and shall forthwith certify to the Texas State Board of Medical Examiners, through the Secretary of such Board, under the seal of the District Court which he serves, the fact that such license is no longer registered, giving the exact date of such revocation, suspension or cancellation as received by him, and shall tax the fee for making such certificate against the Board as part of the costs of the cancellation proceedings. Each County Health Officer shall keep informed of the death or removal of all registered physicians residing in the county where he resides, and upon the death or removal of any such physician from said county, shall certify the fact of such death or removal, giving the name of the physician who has died or so removed, the date or approximate date of such death or removal, and shall date and sign such certificate and deliver the same, either in person or by registered mail, to the district clerk of such county, and such clerk shall make notation forthwith of such death or removal in said Medical Register, and notify the Secretary of the Texas State Board of Medical Examiners of such death or removal. The notation of such revocation, suspension or cancellation shall consist of writing in large, legible letters across the face of the record of such license revoked, suspended, or cancelled, the words "Cancelled this ——— day of ————————, A.D. ——— by the Texas State Board of Medical Examiners, or by ——— District Court of ———————— County."; filling in the blanks correctly so as to indicate the date of such cancellation, and such notation shall be dated and signed officially by the clerk. The notation of the death or removal of a registered physician by the district clerk shall be by noting the fact of such death or removal upon the record of the license of the physician who has died or removed from the county, in large legible letters, the date of such notation, and the official signature of the clerk. The district clerk shall collect from each physician 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 Medical Register required by law to be so made in reference to the physician named in said license. All matters pertaining to each physician shall be kept and written upon one page of said Medical 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 medical register, or any part thereof, which is not an exact copy of the entire page, or which does not include all notations regarding the revocation, suspension or cancellation of license, death or removal of the physician in question, appearing in the office of said clerk. A copy from the Medical Register pertaining to any person whose license is registered therein, certified to by the district clerk having the custody of the said Medical Register, under the seal of the Court which he serves, shall be competent evidence in all trial courts and in hearings before the Texas State Board of Medical Examiners. 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 physician in the office of the district clerk shall also be prima facie evidence in all trial courts and in hearings conducted by the Texas State Board of Medical Examiners. As amended Acts 1953, 53rd Leg., p. 1029. ch. 426, § 2.

Art. 4499a. Loss or destruction of license; duplicate license

If any license issued under this Act shall be lost or destroyed, the holder of any such license may present his application for duplicate license to the Texas State Board of Medical Examiners, on a form to be prescribed by the Board, together with his affidavit of such loss or destruction, and that he is the same person to whom such license was issued, and other information concerning its loss or destruction as the Texas State Board of Medical Examiners shall require, and shall, upon payment of a fee of Ten Dollars ($10) be granted a duplicate license; provided further that the same fee as set forth above for duplicate licenses shall also apply to endorsements by the Board. Added Acts 1953, 53rd Leg., p. 1029, ch. 426, § 3.

Art. 4500. 5738 Reciprocal arrangements

The Texas State Board of Medical Examiners may, in its discretion, upon payment by an applicant of a fee of One Hundred Dollars ($100) grant a license to practice medicine to any reputable physician who is a citizen of the United States or has filed his declaration of intention to become a citizen, and who is a graduate of a reputable medical college, or who has qualified on examination for a certificate of medical qualification for a commission in the United States Army or Navy, and to licentiates of other State or Territories having requirements for medical registration and practice equal to those established by the laws of this State. Applications for license under the provisions of this Act shall be in writing, and upon a form prescribed by the Texas State Board of Medical Examiners. Said application shall be accompanied by a diploma or photograph thereof, awarded to the applicant by a reputable medical college, and in the case of an Army Officer or Naval Officer, a certified transcript, or a certificate, or 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 medicine, lawfully issued to the applicant, upon examination, by some other State or Territory of the United States; provided that the licensing board of such other State or Territory in its examination requires the same general degree of fitness required by this State and grants the same reciprocal privileges to persons licensed

by the Texas State Board of Medical Examiners of this State. Said application shall also be accompanied by an affidavit made by an executive officer of the United States Army or Navy, the President or Secretary of the Board of Medical Examiners which issued the license, or by a duly constituted registration officer of the State or Territory by which the certificate or license was granted, and on which the application for medical registration in Texas is based, reciting that the accompanying certificate or license has not been cancelled, suspended or revoked, except by honorable discharge from the Medical Corps of the United States Army or Navy, and that the statement of the qualifications made in the application for medical license in Texas is true and correct. Applicants for license under the provisions of this Act shall subscribe to an oath in writing before an officer authorized by law to administer oaths, which shall be a part of such application, stating that the license, certificate, or authority under which the applicant practiced medicine in the State or Territory from which the applicant removed, was at the time of such removal in full force and not cancelled or suspended or revoked. Said application shall also state that the applicant is the identical person to whom the said certificate, license, or commission, and the said medical diploma were issued, and that no proceeding has been instituted against the applicant for the cancellation, suspension or revocation of such certificate, license, or authority to practice medicine in the State or Territory in 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 laws of the State of Texas is a felony. A reputable physician under the meaning of this Act shall be one who would be eligible for examination by the Texas State Board of Medical Examiners. A reputable medical college within the meaning of this Act shall be such as is defined in Article 4501 of the Revised Civil Statutes of Texas of 1925, as amended. It is provided, however, that the Board may, in its discretion, grant a license to any reputable physician of another State or Territory, who graduated prior to 1907 from a medical college which at the time of his graduation required only three (3) courses of instruction of not less than six (6) months each for attainment of its diploma, or the Degree of Doctor of Medicine, and which, at the time of his graduation, was generally recognized by the medical examining boards of the States or Territories as maintaining entrance requirements and courses of instruction equal to those maintained by the then better class of medical schools of the United States; provided that the provisions of all other laws of this State are complied with, including a certificate from the State Board of Examiners in the Basic Sciences. As amended Acts 1953, 53rd Leg., p. 1029, ch. 426, § 4.

Art. 4501. 5739 Examination

All applicants for license to practice medicine in this State not otherwise licensed under the provisions of law must successfully pass an examination by the Texas State Board of Medical Examiners. The Texas State Board of Medical Examiners is authorized to adopt and enforce rules of procedure not inconsistent with the statutory requirements. An applicant, to be eligible for examination, must be a citizen of the United States, or has filed his declaration of intention to become a citizen, and must present satisfactory proof to the Board that he is at least twenty-one (21) years of age, of good moral character, who has completed sixty (60) semester hours of college courses other than in medical school, which courses would be acceptable, at the time of completing same, to the University of Texas for credit on a Bachelor of Arts Degree or a Bachelor

of Science Degree, and who is a graduate of a bona fide reputable medical school; a reputable medical school shall maintain a course of instruction of not less than four (4) terms of eight (8) months each; and shall give a course of instruction in the fundamental subjects named in Article 4503 of the Revised Civil Statutes of Texas of 1925; and shall have the necessary teaching force, and possess and utilize laboratories, equipment, and facilities for proper instruction in all of said subjects. Application for examination must be made in writing verified by affidavit, and filed with the Texas State Board of Medical Examiners on forms prescribed by the said Board, accompanied by a fee of Fifty Dollars ($50). All applicants shall be given due notice of the date and place of such examination; provided that the partial examinations provided for in Article 4503 of the Revised Civil Statutes of Texas shall not be disturbed by this Article. Provided further that all students regularly enrolled in medical schools whose graduates are now permitted to take the medical examination prescribed by law in this State shall upon completion of their medical college courses be permitted to take the examination prescribed herein. 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 State Board of Medical Examiners may fix, shall be permitted to take a subsequent examination, upon such subjects required in the original examination as the Board may prescribe, upon the payment of such part of Fifty Dollars ($50) as the Board may determine to be reasonable. In the event satisfactory grades shall be made on the subjects prescribed and taken on such re-examination, the Board may grant the applicant a license to practice medicine. The Board shall determine the credit to be given examinees on the answers turned in on the subjects of complete and partial examination, and its decision thereon shall be final. Provided, however, the Secretary may issue a temporary license to practice medicine to an applicant only after he has filed his completed application, together with an additional fee of Ten Dollars ($10), with the Secretary of the Texas State Board of Medical Examiners, and that all of the other requirements as required for a permanent license are complied with; such temporary license shall be valid only until the date of the next Board meeting, and at that date the temporary license automatically expires, and is of no further effect. If the applicant fails the examination, no further permit shall be issued until he has successfully passed the examination, or is eligible for and has been granted reciprocity. As amended Acts 1951, 52nd Leg., p. 753, ch. 410, § 1; Acts 1953, 53rd Leg., p. 1029, ch. 426, § 5.

Art. 4502. Disposition of fees; compensation of members of board

The fund realized from all fees payable under this Act shall first be applied to the payment of all necessary expenses of the Board, and the remainder is to be applied by order of the Board to compensate members of the Board, said compensation to each member of the Board to be Twenty Dollars ($20) per day for any number of days which any such member may be active on business of the Board, whether such business consists of regular meetings, committee work for the Board, grading papers, or any other function which is a legitimate and proper function held to be necessary by the Texas State Board of Medical Examiners; provided, however, that no member of said Board shall be paid a per diem in excess of fifty (50) days of any calendar year. Said daily compensation shall be exclusive of the necessary costs of travel of any Board member, or any other expenses necessary to the performance of his duty. Provided also, that the premium on any bond required by the Board of any

officer or employee of the Board shall be paid out of said fund, as well as the necessary expenses of any employee incurred in the performance of his duties. As amended Acts 1953, 53rd Leg., p. 1029, ch. 426, § 6.

Art. 4506. 5744 Revocation, cancellation or suspension of license

The Texas State Board of Medical Examiners shall have the right to cancel, revoke, or suspend the license of any practitioner of medicine upon proof of the violation of the law in any respect with regard thereto, or for any cause for which the Board shall be authorized to refuse to admit persons to its examination, as provided in Article 4505 of the Revised Civil Statutes of Texas, 1925, as amended.

Proceedings under this Article shall be begun by filing charges with the Texas State Board of Medical Examiners in writing and under oath. Said charges may be made by any person or persons. The President of the Texas State Board of Medical Examiners shall set a time and place for hearing, and shall cause a copy of the charges, together with a notice of the time and place fixed for hearing, to be served on the respondent or his counsel at least ten (10) days prior thereto. When personal service is impossible, or cannot be effected, the Board shall cause to be published once a week for two (2) successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to practice, and shall mail a copy of the charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than ten (10) days after the date of the last publication of the notice. At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records and publications authorized or required by the terms of this Act shall be privileged.

Any person whose license to practice medicine has been cancelled, revoked or suspended by the Board may, within twenty (20) days after the making and entering of such order, take an appeal to any of the district courts in the county of his residence, but the decision of the Board shall not be enjoined or stayed except on application to such district court after notice to the Board. The proceeding on appeal shall be a trial de novo, as such term is commonly used and intended in an appeal from the justice court to the county court, and which appeal shall be taken in any District Court of the county in which the person whose certificate of registration or license is involved, resides. Upon application, the Board may reissue a license to practice medicine to a person whose license has been cancelled or suspended, but such application, in the case of cancellation or revocation, shall not be made prior to one (1) year after the cancellation or revocation, and shall be made in such manner and form as the Board may require. As amended Acts 1953, 53rd Leg., p. 1029, ch. 426, § 7.

Arts. 4507, 4508 Repealed. Acts 1953, 53rd Leg., p. 1029, ch. 426, § 8

Proceedings for revocation, cancellation or suspension of license, see art. 4506.

Representation of board by Attorney General or county or district attorney, see art. 4509.

Art. 4509. Committees; rules and regulations; subpoenas and evidence; injunction; hearings

The Texas State Board of Medical Examiners shall have the power to appoint committees from its own membership, and to make such rules and regulations not inconsistent with this law as may be necessary for the performance of its duties, the regulation of the practice of medicine, and the enforcement of this Act. The duties of any such committees appointed from the Texas State Board of Medical Examiners membership shall be to consider such matters pertaining to the enforcement of this Act and the regulations promulgated in accordance therewith as shall be referred to such committees, and they shall make recommendations to the Texas State Board of Medical Examiners with respect thereto. The Texas State Board of Medical Examiners shall have the power, and may delegate the said power to any committee, to issue subpoenas, and subpoenas duces tecum to compel the attendance of witnesses, the production of books, records and documents, to administer oaths and to take testimony concerning all matters within its jurisdiction. The Texas State Board of Medical Examiners shall not be bound by strict rules of evidence or procedure, in the conduct of its proceedings, but the determination shall be founded on sufficient legal evidence to sustain it. The Texas State Board of Medical Examiners shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Act. Said action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law. The Texas State Board of Medical Examiners shall be represented by the Attorney General and/or the County or District Attorneys of this State. Before entering any order cancelling or suspending a license to practice medicine, the Board shall hold a hearing in accordance with the procedure set out in Article 4506, Revised Civil Statutes of Texas, 1925, as amended by this Act. As amended Acts 1953, 53rd Leg., p. 1029, ch. 426, § 9.

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 diagnose, 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 diagnose, 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. As amended Acts 1953, 53rd Leg., p. 1029, ch. 426, § 10.

CHAPTER EIGHT—PHARMACY

Art. 4542a. State Board of Pharmacy to regulate practice of Pharmacy; exclusion of Communists, etc.

Distribution of drugs or medicines, except in original packages, unlawful; exceptions

Sec. 8. It shall be unlawful for any person who is not a registered pharmacist under the provisions of this Act to compound, mix, manufacture, combine, prepare, label, sell or distribute at retail or wholesale any drugs or medicines, except in original packages. Provided that all persons now registered as pharmacists in this State shall have all rights granted to pharmacists under this Act; provided, however, that nothing in this Act shall apply to or interfere with any licensed practitioner of medicine, dentistry or chiropody, who is duly registered as such by his respective State Board of Examiners of this State and no provision of this Act shall be construed to restrain them from operating or maintaining a dispensary, prescription laboratory or apothecary shop; and provided further, that no provision of this Act shall be construed to restrain a bona fide hospital or clinic from operating a dispensary or apothecary shop in order to provide services to its patients. Provided further, that nothing contained in this Act shall be construed to prevent the personal administration of drugs and medicines carried by any physician, surgeon, dentist, chiropodist or veterinarian licensed by his respective Board of Examiners of this State, in order to supply the needs of his patients; nor to prevent the sale by persons, firms, joint stock companies, partnerships or corporations, other than registered pharmacists, of patent or proprietary medicines, or remedies and medicaments generally in use and which are harmless if used according to instructions as contained upon the printed label; and insecticides and fungicides and chemicals used in the arts, when properly labeled; nor insecticides or fungicides that are mixed or compounded for purely agricultural purposes. Provided further, this Section shall not apply to (1) members of the faculty of a reputable college or school of Pharmacy recognized by the Texas State Board of Pharmacy where such faculty members who are registered pharmacists, perform their services for the sole benefit of such school or college or to (2) senior students of a reputable college or school of Pharmacy recognized by the Texas State Board of Pharmacy who perform their services without pay in the presence and under the direct supervision of a registered pharmacist who is a member of the staff of a reputable college or school of Pharmacy recognized by the Texas State Board of Pharmacy, provided that the sale of such preparations and prescriptions so compounded by such senior students shall be restricted to duly registered students of the college or university attended by such senior students. As amended Acts 1951, 52nd Leg., p. 824, ch. 469, § 2; Acts 1953, 53rd Leg., p. 916, ch. 378, § 1.

Emergency. Effective June 8, 1953. Section 2 of the Act of 1953 repealed conflicting laws or parts of laws.

CHAPTER NINE—DENTISTRY

Art. 4551a. Persons regarded as practicing dentistry

Any person shall be regarded as practicing dentistry within the meaning of this Chapter:

(1) Who publicly professes to be a dentist or dental surgeon or uses or permits to be used for himself or for any other person, the title

of "Doctor," "Dr.," "Doctor of Dental Surgery," "D. D. S.," "Doctor of Dental Medicine," "D. M. D.," or any other letters, title, terms or descriptive matter which directly or indirectly represents him as being able to diagnose, treat, remove stains or concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity or physical condition of the human teeth, alveolar process, gums or jaws.

(2) Who shall offer or undertake by any means or methods whatsoever, to clean teeth or to remove stains, concretions or deposits from teeth in the human mouth, or who shall undertake or offer to diagnose, treat, operate, or prescribe by any means or methods for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, oral cavity, alveolar process, gums, or jaws. As amended Acts 1953, 53rd Leg., p. 721, ch. 281, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 8 of the amendatory Act of 1953 repealed conflicting laws or parts of laws.

Section 9 provided that partial unconstitutionality should not affect the validity of the remaining portions of the Act.

Art. 4551b. Exceptions

The definition of dentistry as contained in Chapter 9, of Title 71,[1] of the Revised Civil Statutes of Texas as amended shall not apply to: (1) members of the faculty of a reputable dental college or school where such faculty members perform their services for the sole benefit of such school or college; or to (2) students of a reputable dental college who perform their operations without pay except for actual cost of materials, in the presence of and under the direct personal supervision of a demonstrator or teacher who is a member of the faculty of a reputable dental college; or to (3) persons doing laboratory work on inert matter only, and who do not solicit or obtain work, by any means, from a person or persons not a licensed dentist actually engaged in the practice of dentistry and who do not act as the agents or solicitors of, or have any interest whatsoever in, any dental office, practice or the receipts therefrom, or to (4) physicians and surgeons legally authorized to practice medicine as defined by the law of this State, or to (5) dental hygienists legally authorized to practice dental hygiene in this State and who practice dental hygiene in strict conformity with the laws of Texas regulating the practice of dental hygiene, or to (6) those persons who as members of an established church practice healing by prayer only. Nothing in this Act applies to one legally engaged in the practice of dentistry in this State at the time of the passage of this law, except as hereinbefore provided. As amended Acts 1951, 52nd Leg., p. 427, ch. 267, § 7; Acts 1953, 53rd Leg., p. 721, ch. 281, § 5.

1 Article 4543 et seq.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 4551c. Restraining practice in violation of law

The actual practice of dentistry in violation of the laws of this State shall be enjoined at the suit of the State. 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 or is about to be, so unlawfully practicing dentistry in this State may be made a party defendant in said suit, which must be filed in the county in which defendant is practicing or threatening to practice dentistry. The Attorney General, the District Attorney of the district or the County Attorney of the county in which the unlawful acts complained of are taking place

shall have the authority and it shall be their duty and the duty of each of them, to file such suits and to represent the State therein. If on final trial it be shown that the defendant has been unlawfully practicing dentistry or is about to practice dentistry unlawfully the court shall, by injunction, permanently enjoin the defendant from practicing or continuing the practice of dentistry in violation of law; and disobedience of said injunction shall subject the defendant to the penalties provided by law for 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 and cumulative of all other remedies provided for the prevention of the unlawful practice of dentistry. 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 are applicable to other suits for injunction. As amended Acts 1953, 53rd Leg., p. 721, ch. 281, § 7.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER TWELVE—EMBALMING

Art.
4582b. Funeral directing and embalming [New].

Arts. 4576a to 4581. Repealed. Acts 1953, 53rd Leg., p. 661, ch. 251, § 7. Eff. June 4, 1953

Art. 4582a. Repealed. Acts 1953, 53rd Leg., p. 661, ch. 251, § 7. Eff. June 4, 1953

Art. 4582b. Funeral directing and embalming

Creation of the Board

Section 1. There is hereby created the State Board of Morticians, consisting of six members who shall be citizens of the United States and residents of the State of Texas and shall be licensed embalmers and licensed funeral directors in the State of Texas; each shall have a minimum of ten years, consecutively, of such experience in this State immediately preceding appointment. The members of said Board shall be appointed by the Governor, by and with the consent of the Senate, for a period of six years, each member subject to removal by the Governor for neglect of duty, incompetence, or fraudulent or dishonest conduct. The members of the State Board of Embalming, holding office at the time of the effective date of this Act, shall continue to hold office, as members of this Board, for the duration of the terms for which they are appointed. Any vacancies existing on the Board at the time of the effective date of this Act shall be filled by the Governor, and the Governor shall, in appointing successive members to the Board, so designate their terms so that two places on the Board shall become vacant each two years. Any vacancy in an unexpired term shall be filled by appointment of the Governor for the unexpired term. No member of the Board shall be appointed for more than two terms of service.

The members of the said Board, before entering upon their duties, shall take and subscribe to the oath of office prescribed for other State officials, which oath shall be administered under proper authority and same shall

be filed in the office of the Secretary of State. Each person appointed to the Board shall be furnished with a certificate of appointment by the Governor upon which shall be evidence of the taking of the oath of office.

The State Board of Morticians is hereby granted the powers and there is imposed upon it the duties provided in this Act and said Board shall have the powers and perform the duties thus provided and, likewise, of any other Acts that hereafter may be passed relating to the powers and duties of said Board.

Powers and Duties of the Board

Sec. 2. The State Board of Morticians shall have the power and it shall be its duty:

(1) To adopt and promulgate such rules and regulations for the transaction of its business and for the betterment and promotion of the standards of education, service and practice to be followed in the profession of funeral directing and of embalming in the State of Texas within its discretion, such being consistent with the laws of this State or for the public good. No rule or regulation promulgated by the Board may be adopted, amended or rejected without due notice and hearing thereon.

(2) To prescribe and maintain a standard of proficiency and character as to the qualifications of those engaged, and who may engage, in the practice of funeral directing and embalming in connection with the care and disposition of dead human bodies in this State, and to enforce compliance with all laws thereto pertaining, and all rules and regulations which it may adopt if same are not inconsistent with the laws of this State or the United States.

The Board shall have the power to summon witnesses and to require the production of books and records, and to prepare for the purpose of such hearing, and to administer oaths. Any District Court or any Judge of such court in this State, in term time or in vacation, upon application by the accused, or of the Board, or a member thereof, may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the Board, in any hearing relating to the refusal, suspension, renewal, or revocation, or issuing of a license, and may order the sheriff or any other peace officer of the county wherein said order is made and entered, or of any county in the State, to serve such process as may be issued in order to compel the attendance of witnesses before the Board, for which services so rendered by such officer or officers, the fees and mileage of officers and of witnesses shall be the same as allowed in criminal cases and shall be paid from the fund of the Board as herein provided for, as other expenses of the Board are paid. If the accused shall prevail at such hearing, the Board shall grant him the proper relief without delay. Any investigation, inquiry, or hearing thus authorized shall be entertained or held by or before the Board with a quorum of the members thereof in attendance.

The Attorney General or any District or County Attorney, or any attorney designated and empowered by the Board, may institute any injunction proceeding or such other proceeding as to enforce the provisions of this Act, and to enjoin any funeral director, embalmer, funeral establishment, individual, partnership or corporation from operating without having complied with the provisions hereof.

(3) To meet in regular session at least two times each year for the transaction of business. Examinations for funeral directors and embalmers shall be held at least once during each year at such times and places as the Board may designate and give due notice thereof. Special meetings

or hearings may be held at such time and place as may be determined by and upon call of the President of the Board.

(4) To elect a President, Vice President, and Secretary from the members of said Board who shall serve for two years, or until their successors shall be elected and qualified. The Secretary shall give bond to the State of Texas in a sum equal to the maximum annual anticipated receipts of the Board, and any premium payable for such bond shall be paid from the funds of the Board; likewise the Board may require and set the amount of bond of an Executive Secretary and each such bond shall be deposited with the Treasurer of the State of Texas. The Secretary shall deliver all money on hand at the end of his term of office to his successor. The President of the Board shall preside at all meetings of the Board unless otherwise ordered, and he shall exercise and perform all duties and functions incident to the office of the President of the Board. A majority of the members of the Board shall constitute a quorum for the transaction of business.

(A) The Board shall make an annual report, certified by a qualified public accountant, to the State Board of Health on or before the first day of November of each year covering the work of the Board for the preceding fiscal year, and such report shall include an itemized account of money received and expended and the purpose therefor together with names of all duly licensed funeral directors and embalmers, and a copy of this report shall be furnished each licensed funeral director and embalmer in the State. A copy of this report shall be filed with the Secretary of State.

(B) The Board may employ such inspectors, clerical and technical assistants, including an Executive Secretary, as it may determine to be necessary to carry out the provisions of this Act, and the terms and conditions of such employment shall be determined by the Board.

(C) Members of the Board shall be reimbursed for necessary traveling expenses incident to attendance upon the business of the Board, and in addition thereto, each shall receive a per diem allowance of Twenty-five ($25.00) Dollars for each day actually spent by such member upon attendance to the business of the Board, not to exceed sixty days within a calendar year. The Secretary, in the absence of an Executive Secretary, notwithstanding membership on the Board, shall receive and be paid a salary for the time he devotes to the business of the Board, the amount and method of payment of which shall be fixed by the Board, and in addition thereto, shall receive necessary traveling expenses incurred in the performance of such duty; provided, however, he shall not be paid a per diem allowance during the time he is compensated on a salary basis; all such expenses, per diem allowances and compensation shall be paid out of the receipts of the Board and none of such expense shall in any manner become an expense to the State of Texas. All fees received under the provisions of this law in excess of the necessary and proper expenses of the Board shall be held by the Secretary of the Board as a special fund with which to pay the expenses of the Board in administering and enforcing this Act.

(D) A funeral establishment shall be located at a fixed place; however, no funeral establishment may be operated in or on any tax exempt property or cemetery. The Board shall have the power to inspect the premises in which funeral directing is conducted or where embalming is practiced or where an applicant proposes to practice, and to prescribe rules and regulations pertaining to the operation of all funeral establishments.

Definition of Terms

Sec. 3. The term "funeral director," as herein used, is a person engaged in or conducting, or holding himself out as being engaged in:

(a) Preparing, other than by embalming, for the burial or disposal and directing and supervising the burial or disposal of dead human bodies;

(b) maintaining a funeral establishment for the preparation and the disposition, or for the care of dead human bodies;

(c) who shall, in connection with his name or funeral establishment, use the words "funeral director," or "undertaker," or "mortician," or any other title implying that he is engaged as a funeral director as herein defined.

The term "directing a funeral," as herein used, shall mean the supervision of a licensed funeral director from the time of the first call until interment is completed.

The term "embalmer," as herein used, is a person who disinfects or preserves a dead human body, entire or in part, by the use of chemical substances, fluids, or gases in the body, or by the introduction of same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities. The placing of any such chemical on or in a dead human body by any person who is not a licensed embalmer shall be deemed a violation of this Act; provided that this shall not apply to a registered apprentice working under the supervision of a licensed embalmer. All persons who are engaged in the business of embalming or who profess to be engaged in such business, or who hold themselves out to the public as emblamers, shall be licensed embalmers.

The term "apprentice," as herein used, is a person engaged in learning the practice of funeral directing and/or the practice of embalming under the instruction, direction and personal supervision of a duly licensed funeral director, or a duly licensed embalmer of and in the State of Texas, in accordance with the provisions of this Act, having been duly registered as such with the Board prior thereto.

The term "apprenticeship," as herein used, shall be construed as a steady, full-time application of an apprentice in his attempt to qualify as a licensed funeral director and/or embalmer.

The term "funeral establishment," as herein used, is a place of business used in the care and preparation for burial or transportation of dead human bodies, or any place where one or more persons, either as sole owner, in co-partnership or through corporate status, represent themselves to be engaged in the business of embalming and/or funeral directing, or are so engaged. It shall be operated only under the supervision and direction of a licensed funeral director.

The term "due notice," as herein used, shall mean written or published notice of the time and place of meeting and the contemplated action of the Board. Notice of time, place and purpose of any meeting of the Board published in at least three daily newspapers in three separate cities in the State, at least fifteen days prior thereto, shall be adequate notice for any meeting, including the giving of examinations, except notice of a meeting wherein a change in the rules and regulations of the Board is to be considered shall be given by written notice to all licensees in Texas, at the address registered with the Board, at least fifteen days in advance of any hearing thereon.

The term "mortuary science," as herein used, shall mean the scientific, professional and practical aspects, with due consideration given to ac-

cepted practice, covering the care, preparation for burial or transportation of dead human bodies, which shall include the preservation and sanitation thereof and restorative art, and as such is related to public health, jurisprudence, good taste and business administration.

Licenses

Sec. 4. (1) The Board is hereby authorized and empowered and it shall be its duty to determine the qualifications necessary to enable any person to lawfully practice as a funeral director, to embalm dead human bodies, and to conduct a funeral establishment. The Board shall examine all applicants for funeral directors and embalmers licenses and shall issue the proper license to all those persons who successfully pass such examination and qualify under any additional requirements the Board may, from time to time, prescribe.

The minimum requirements for the issuance of a license to practice funeral directing and/or embalming in Texas, by this Board, unless otherwise determined by the Board, are as follows, to-wit:

(A) For a license to practice funeral directing: The applicant shall have been found by the Board to be not less than twenty-one years of age, a resident of the State of Texas and a citizen of the United States, of good moral character, have graduated from an accredited high school, or have attained the equivalent thereof, have served as an apprentice for at least one year under the personal supervision and instruction of a licensed funeral director and satisfied the Board as to his proficiency, through oral and written examination on the subjects of disinfection, sanitation, hygiene, professional law, business and professional ethics, mortuary management, and rules and laws governing preparation and transportation of dead human bodies for burial.

(B) For a license to practice embalming: The applicant shall have been found by the Board to be not less than twenty-one years of age, a resident of the State of Texas and a citizen of the United States, of good moral character, have graduated from an accredited high school, or have attained the equivalent thereof, have successfully completed one academic year of instruction in a prescribed course of mortuary science approved by the Board, have served as an apprentice for two years under the personal supervision and instruction of a licensed embalmer and satisfied the Board as to his proficiency, through oral and written examination on the subjects of anatomy, sanitary science, chemistry, pathology, restorative art, bacteriology, and disinfection, the care, preservation, embalming, transportation and burial of dead human bodies, and shall, at the request of the Board, demonstrate his proficiency as an embalmer by operation on a cadaver.

(2) Any person engaged, or desiring to engage, in the practice of embalming and funeral directing, in this State, in connection with the care and disposition of dead human bodies, shall make written application to the Board for a license, accompanying same with a fee not to exceed Fifty ($50.00) Dollars. The license, or licenses, when issued, shall be signed by a majority of the Board, and authorize the licensee to practice the science of embalming and/or funeral directing. All licenses shall be registered in the office of the County Clerk in the county in which the holder thereof practices embalming and/or funeral directing, and shall be displayed conspicuously in the place of business.

(3) Any person presently holding a current funeral directors license and/or current embalmers license granted by the proper authority in this State to practice funeral directing and/or embalming shall not be re-

quired to make application for or submit to an examination but shall be entitled to a renewal of such license, or licenses, upon the same terms and conditions as are herein provided for the renewal of licenses of those who may be licensed after the passage of this Act; but all such persons shall be subject to every other provision of this Act and such rules and regulations as the Board may adopt in pursuance of this Act.

Every registered embalmer and/or funeral director, who desires to continue the practice of such business or profession, shall annually, during the time he shall continue in such practice, on such date as the Board may determine, pay to the Secretary of said Board a fee not to exceed Seven and 50/100 ($7.50) Dollars for the renewal of each license.

(4) The Board is hereby authorized and empowered, for good cause, upon finding the holder of such license to be guilty of violating any provision of the laws pertaining to the care and disposition of dead human bodies and/or of the rules and regulations prescribed by the Board, to revoke any license issued by it; it may, also, refuse to issue, or may refuse to renew, or may suspend any license, or place the holder thereof on a term of probation. Any licensed funeral director and/or embalmer whose license has been revoked, suspended or renewal refused, or a person to whom the Board has refused to issue a license to which he is entitled, under this Act and/or the rules and regulations of the Board, shall have the right of appeal, from any such decision of the Board, to any District Court in the county in which he resides within thirty days from and after the date the said Board announces its final decision. When any such appeal is perfected the trial thereon shall be conducted de novo, as in the case of an appeal from the Justice Court to the County Court. However, no action to suspend, revoke or cancel any license shall be taken by the Board unless and until the accused has been furnished with a statement of charges made against him together with notice of the time and place of hearing thereon. Such notice and charges shall be delivered to the accused licensee by registered mail of the United States Government, or by service of the sheriff or any constable of the county of his residence, at least fifteen days prior to the date of such hearing. Any such hearing shall be a public hearing at which the accused shall be accorded reasonable time within which to present an explanation or defense, with counsel. A stenographic report of each proceeding to revoke or suspend a license shall be made at the expense of the Board, a transcript thereof kept in its files, and a copy shall be furnished the licensee upon his request.

(5) Any person, partnership, corporation, association, or his or its agents who shall violate any of the provisions of this Act, or rules of the Board, shall be deemed guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not less than Fifty ($50.00) Dollars nor more than Two Hundred ($200.00) Dollars. It is the duty of the State Health Officer, the County Health Officers, City Health Officers, and Public Health Officers throughout the State, to inform against and assist in the prosecution of all persons when there is reasonable cause to believe they are guilty of violating any of the provisions of this Act, or rules of the Board.

Exemptions from application of law

Sec. 5. Nothing in this law shall apply to or in any manner interfere with the duties of any municipal, county or state official, or state institution, nor apply to any person only engaged in the furnishing of burial receptacles for the dead, but only to such person or persons engaged in the business of embalming and/or funeral directing in connection with the care and disposition of the dead.

Prohibited acts

Sec. 6. No persons shall embalm or pretend to practice the science of embalming, in connection with the care and disposition of the dead, unless such person is a registered embalmer within the meaning of this Chapter, and no person shall act as a funeral director or pretend to practice as a funeral director in this State, in connection with the care and disposition of the dead, unless such person is a registered funeral director within the meaning of this Chapter.

Any licensed embalmer or funeral director who knowingly permits any person not licensed as an embalmer to embalm or prepare for burial a human body under his jurisdiction, or permits any person not licensed as a funeral director to hold or conduct a funeral service for which he is responsible, or who permits any person under his supervision, or associated with him, to violate the provisions of this Chapter, shall be guilty of violating the provisions of this Chapter and subject to the penalties provided therein; except the foregoing provisions shall not be construed to restrict the activities of a duly registered apprentice operating under the supervision of a licensed embalmer or licensed funeral director.

Whoever shall embalm or attempt to practice as an embalmer or whoever shall act as a funeral director, or attempt to practice as a funeral director, in connection with the care and disposition of the dead, without having complied with the provisions of this Chapter, in connection with the care and disposition of the dead, shall be fined not less than Fifty ($50.00) Dollars nor more than Two Hundred ($200.00) Dollars for each offense. Acts 1953, 53rd Leg., p. 661, ch. 251.

Emergency. Effective June 4, 1953.

Section 7 of the Act of 1953 provided that partial invalidity should not affect remaining portions of the Act, declared every provision of the Act independent, and repealed Articles 4576a, 4577–4578 and 4582a of the Revised Civil Statutes and Articles 759–762 and 762a of the Penal Code.

CHAPTER THIRTEEN—ANATOMICAL BOARD

Art. 4584. 5757 Regulations for delivering bodies

All public officers, agents, and servants, and all officers, agents and servants of any county, city, town, district or other municipality, and of any and every almshouse, prison, morgue, hospital, or any other public institution, having charge or control of dead human bodies required to be buried at public expense are hereby required, after notification in writing by said board or its duly authorized officers, or persons designated by the authorities of said board, then and thereafter to announce to said board, its authorized officer or agent, whenever such body or bodies come into his or their possession, charge or control, and shall without fee or reward greater than the value of such fee as was paid in any county, city, town, or municipality on the 3rd day of April, 1907, for the burial of pauper bodies, deliver such body or bodies, and permit the said board and its agents and the physicians and surgeons, from time to time designated by them who may comply with the provisions of this law, to take and remove all such bodies as are not desired for post mortem examination by the medical staff of public hospitals or institutions for the insane, to be used within this State for the advancement of medical science; but no notice need be given, nor any such body be delivered, if any person claiming to be and satisfying the authorities in charge of such body that he or she is of a kindred or is related by marriage to the deceased, or is a bona fide friend or repre-

sentative of an organization of which the deceased was a member, shall claim the said body for burial, but it shall be surrendered without cost to such claimant for interment, or shall upon such claimant's request, be interred in the manner provided for the interment of bodies not coming within the operation of this law. No notice shall be given for the body to be delivered, if the deceased died of contagious disease, save tuberculosis, or syphilis, nor shall notice be given if such deceased person were a traveler who died suddenly, in which cases the body shall be buried. It is further required that due effort be made by those in charge of such almshouse, prison, morgue, hospital or other public institution having charge or control of such dead human bodies, to find kindred or relatives of such deceased and notify him or her of the death; and failure to claim such body by kindred or relation within twenty-four hours after receipt of such notification shall be recognized as bringing such body under the provisions of this law, and delivery shall be made as soon thereafter to said board, its officers, or agents as may be possible. Such person in charge of such public institution shall file with the County Clerk an affidavit that he has made diligent inquiry to find the kindred or relatives of the deceased, stating such inquiry as he has made. In case a body is claimed by relatives within ten days after it has been delivered to an institution or persons entitled to receive the same under the provisions of this law, it shall be delivered to them for burial and without cost. As amended Acts 1953, 53rd Leg., p. 361, ch. 87, § 1.

Emergency. Effective May 1, 1953. Section 2 of the amendatory Act of 1953 repealed all conflicting laws and parts of laws.

CHAPTER SEVENTEEN—NATUROPATHY

Art. 4590d. Practice of naturopathy

Refusal to examine applicant or issue license; revocation or suspension; committees; rules and regulations; subpoenas and evidence

Sec. 10.

A. The State Board of Naturopathic Examiners may refuse to admit persons to its examinations, and to issue license to practice Naturopathy to any person, for any of the following reasons:

(1) The presentation to the Board of any license, certificate, or diploma which was illegally or fraudulently obtained, or when fraud or deception has been practiced in passing the examination.

(2) Conviction of a crime of the grade of a felony, or one which involves moral turpitude, or procuring or aiding or abetting the procuring of a criminal abortion.

(3) Habits of intemperance, or drug addiction, calculated, in the opinion of the Board, to endanger the lives of patients.

(4) Grossly unprofessional or dishonorable conduct of a character which in the opinion of the Board is likely to deceive or defraud the public.

(5) The violation, or attempted violation, direct or indirect, of any of the provisions of this Act, either as a principal, accessory or accomplice.

(6) The use of any advertising statement of a character tending to mislead or deceive the public.

(7) Advertising professional superiority, or the performance of professional service in a superior manner.

(8) The purchase, sale, barter, or use, or any offer to purchase, sell, barter, or use, any naturopathic degree, license, certificate, diploma, or transcript of license, certificate, or diploma, in or incident to an application to the Texas State Board of Naturopathic Examiners for license to practice natuorpathic medicine.

(9) Altering, with fraudulent intent, any naturopathic license, certificate, diploma, or transcript of naturopathic license, certificate or diploma.

(10) The use of any naturopathic license, certificate, or diploma, or transcript of any naturopathic license, certificate, or diploma, which had been fraudulently purchased, issued, counterfeited or materially altered.

(11) The impersonation of, or acting as proxy for, another in any examination required by this Act for a naturopathic license.

(12) The impersonation of a licensed practitioner, or permitting, or allowing another to use his license, or certificate to practice naturopathic medicine in this State, for the purpose of treating, or offering to treat, sick, injured, or afflicted human beings.

(13) Employing directly or indirectly, any person whose license to practice naturopathic medicine has been suspended, or association in the practice of naturopathic medicine with any person or persons whose license to practice naturopathy has been suspended, or with any person who has been convicted of the unlawful practice of naturopathy in Texas or elsewhere.

Any applicant who may be refused admittance to examination shall have the right to have such issue tried in the District Court of the county in which he resides or in which any Board member resides. All orders of the Board shall be prima-facie valid.

B. The State Board of Naturopathic Examiners shall have the right to cancel, revoke, or suspend the license of any practitioner of naturopathy upon proof of the violation of this law in any respect with regard thereto, or for any cause for which the Board shall be authorized to refuse to admit persons to its examination, as hereinabove provided.

C. Proceedings under this Article shall be begun by filing charges with the Texas State Board of Naturopathic Examiners in writing and under oath. Said charges may be made by any person or persons. The President of the Texas State Board of Naturopathic Examiners shall set a time and place for hearing, and shall cause a copy of the charges, together with a notice of the time and place fixed for hearing, to be served on the respondent or his counsel at least ten (10) days prior thereto. When personal service is impossible, or cannot be effected, the Board shall cause to be published once a week for two successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to practice, and shall mail a copy of the charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than ten (10) days after the date of the last publication of the notice. At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board. All charges, complaints, notices, orders, records and publications authorized or required by the terms of this Act shall be privileged.

Any person whose license to practice naturopathy has been cancelled, revoked or suspended by the Board may, within twenty (20) days after

the making and entering of such order, take an appeal to any of the district courts in the county of his residence, but the decision of the Board shall not be enjoined or stayed except on application to such district court after notice to the Board. The proceeding on appeal shall be against the Board alone as defendant and judicial review shall be in accordance with the substantial evidence rule as defined by the Supreme Court of Texas. The State Board of Naturopathic Examiners shall be represented in all judicial proceedings by the Attorney General and/or the several district or county attorneys of this State. Upon application, the Board may reissue a license to practice naturopathy to a person whose license has been cancelled or suspended, but such application, in the case of cancellation or revocation, shall not be made prior to one (1) year after the cancellation or revocation, and shall be made in such manner and form as the Board may require.

D. The State Board of Naturopathic Examiners shall have the power to appoint committees from its own membership, and to make such rules and regulations not inconsistent with this law as may be necessary for the performance of its duties, the regulation of the practice of naturopathy and the enforcement of this Act. The duties of any such committees appointed from the State Board of Naturopathic Examiners membership shall be to consider such matters pertaining to enforcement of this Act and the regulations promulgated in accordance therewith as shall be referred to such committees, and they shall make recommendations to the State Board of Naturopathic Examiners with respect thereto. The Texas State Board of Naturopathic Examiners shall have the power, and may delegate the said power to any committee, to issue subpoenas, and subpoenas duces tecum to compel the attendance of witnesses, the production of books, records and documents, to administer oaths and to take testimony concerning all matters within its jurisdiction. The State Board of Naturopathic Examiners shall not be bound by strict rules of evidence or procedure, in the conduct of its proceedings, but the determination shall be founded on sufficient legal evidence to sustain it. Before entering any order cancelling or suspending a license to practice naturopathy, the Board shall hold a hearing in accordance with the procedure hereinabove set out. As amended Acts 1953, 53rd Leg., p. 849, ch. 343, § 1.

No more licenses issued under section 12

Sec. 19a. The State Board of Naturopathic Examiners shall not accept any additional applications for license under the provisions of Section 12 of this Act (Section 12, Article 4590d) after the effective date of this Section, and the State Board of Naturopathic Examiners shall not issue any additional licenses under the provisions of Section 12 of said Act after the effective date of this Section. Added Acts 1953, 53rd Leg., p. 849, ch. 343, § 2.

Emergency. Effective June 8, 1953.

Section 3 of the Act of 1953 provided that partial invalidity should not affect the remainder of the Act.

TITLE 74—HUMANE SOCIETY

Arts. 4597–4601. Repealed. Acts 1953, 53rd Leg., p. 748, ch. 294, § 1. Eff. June 5, 1953

Section 2 of the repealing Act declaring an emergency recited that the articles were, in effect, obsolete.

TITLE 75—HUSBAND AND WIFE

CHAPTER FOUR—DIVORCE

Art. 4629. 4631–2 Grounds for divorce

A divorce may be decreed in the following cases:

(1) Where either party is guilty of excesses, cruel treatment, or outrages toward the other, if such ill treatment is of such a nature as to render their living together insupportable;

(2) In favor of the husband, where his wife shall have been taken in adultery, or where she shall have voluntarily left his bed and board for the space of three (3) years with the intention of abandonment;

(3) In favor of the wife, where the husband shall have left her for three (3) years with the intention of abandonment, or where he shall have abandoned her and lived in adultery with another woman;

(4) Where a husband and wife have lived apart without cohabitation for as long as seven (7) years;

(5) In favor of either the husband or wife, when the other shall have been convicted, after marriage, of a felony and imprisoned in the State penitentiary; provided, that no suit for divorce shall be sustained because of the conviction of either party for felony until twelve (12) months after final judgment of conviction, nor then if the Governor shall have pardoned the convict; provided, that the husband has not been convicted on the testimony of the wife; nor the wife on the testimony of the husband;

(6) When either the husband or wife has become permanently and incurably insane; provided, however, that no divorce shall be granted unless such insane person shall have been duly and legally adjudged to be insane and confined in a public or private insane asylum or other institution for psychopathic patients of this State, or of a sister State, for at least five (5) years next preceding the commencement of the action for divorce, nor unless it shall appear to the court that such insanity is permanent and incurable; provided, however, that no costs shall be adjudged against an insane spouse in divorce action. As amended Acts 1953, 53rd Leg., p. 366, ch. 91, § 1.

Emergency. Effective May 1, 1953.

Art. 4639a. Further provision as to children, petition, judgment

Section 1. Each petition for divorce shall set out the name, age, sex and residence of each child under eighteen (18) years of age born of the marriage sought to be dissolved, if any such child or children there be; and if there be no such child or children, then the petition shall so state. No court having jurisdiction of suits for divorce shall hear and determine any such suit for divorce unless such information is set out in such petition or in each cause of action for divorce. Upon the trial of any such cause, and in the event a divorce is granted by the court, if there are such minor children, it shall be the duty of such trial court to inquire into the surroundings and circumstances of each such child or children, and such court shall have full power and authority to inquire into and ascertain the financial circumstances of the parents of such child or children, and of their ability to contribute to the support of same, and

such court shall make such orders regarding the custody and support of each such child or children, as is for the best interest of same; and said court may by judgment, order either parent to make periodical payments for the benefit of such child or children, until same have reached the age of eighteen (18) years, or, said court may enter a judgment in a fixed amount for the support of such child or children, and such court shall have full power and authority to enforce said judgments by civil contempt proceedings after ten (10) days notice to such parent of his or her failure or refusal to carry out the terms thereof, and for the purpose of ascertaining the ability of the parents of such child or children to contribute to the support of same, they may be compelled to testify fully in regard thereto, under penalty of contempt of court, as in other cases. Said court shall have power and authority to alter or change such judgments, or suspend the same, as the facts and circumstances and justice may require, upon notice to such parent as above provided for; or with his or her consent. As amended Acts 1953, 53rd Leg., p. 439, ch. 127, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the amendatory Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict, and provided that partial invalidity should not impair any remaining sections or provisions of the Act.

INSURANCE CODE

CHAPTER THREE—LIFE, HEALTH AND ACCIDENT INSURANCE

Art. 3.34. Texas Securities

The term "Texas Securities," as used in this Chapter, shall be held to include all bonds issued under and by virtue of the Federal Farm Loan Act approved July 17, 1916,[1] when such bonds are issued against and secured by promissory notes or other obligations, the payment of which is secured by mortgage, deed of trust, or other valid lien upon unencumbered real estate situated in this State; bonds of the State of Texas; bonds or interest-bearing warrants of any county, city, town, school district, 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 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.

The term "Texas Securities" shall also include insured accounts and evidences of indebtedness as defined and limited by Section 1, Chapter 618, page 1356, Acts of the 47th Legislature,[2] and Chapter 534, page 966, Acts 1949, 51st Legislature.[3]

The term "Texas Securities," as used in this Chapter, shall also be held to include such debentures, preferred stock and common stock of any (a) solvent electric public utility corporation, incorporated under the laws of and doing business in this State, which derives at least eighty-five (85%) per cent of its gross income from the sale of electricity; or (b) other corporation, incorporated under the laws of and doing business in this State, the principal assets of which are the common stock of subsidiaries which are solvent electric public utility corporations from which it derives at least eighty-five (85%) per cent of its gross income, as are authorized investments under the provisions of Articles 3.39 and 3.41, respectively, of the Insurance Code of the State of Texas. As amended Acts 1953, 53rd Leg., p. 403, ch. 115, § 1.

1 12 U.S.C.A. § 641 et seq.
2 Vernon's Ann.Civ.St. art. 842a.
3 Vernon's Ann.Civ.St. art. 881a—24.

Emergency. Effective May 12, 1953.

Section 2 of the amendatory Act of 1953 repealed conflicting laws and parts of laws to the extent of the conflict, and provided that partial invalidity should not impair any remaining sections or provisions of the Act.

Art. 3.49—1. Life Insurance; Designated Beneficiaries or Owners; Insurable Interest

Sec. 1. Designation of Beneficiaries or Owners in Application.—Any person of legal age may apply for insurance on his life in any legal reserve or mutual assessment life insurance company and in such application designate in writing any person, persons, partnership, association, corporation or other legal entity, or any combination thereof, as the beneficiary or beneficiaries, or the absolute or partial owner or owners, or both beneficiary and owner, of any policy or policies issued in connection with such application; and with respect to any such policy or policies any such beneficiary or owner so designated shall at all times thereafter have an insurable interest in the life of such person, except as provided in Section 3 hereof.

Sec. 2. Designation of Beneficiaries or Owners in Existing or Future Policies.—Any person of legal age whose life is insured under any existing or future policy of insurance by any legal reserve or mutual assessment life insurance company may, in the manner and to the extent permitted by the policy, designate in writing as the beneficiary or beneficiaries thereof any person, persons, partnership, association, corporation or other legal entity, or any combination thereof, and in addition, in any manner and to any extent not prohibited by the terms of the policy, may transfer or assign in writing any such policy or any interest, benefit, right or title therein to any person, persons, partnership, association, corporation or other legal entity, or any combination thereof, and with respect to any such policy any such beneficiary, transferee or assignee shall at all times thereafter have an insurable interest in the life of such person, except as provided in Section 3 hereof.

Sec. 3. Exception of Persons, etc., Engaged in Business of Burying Dead.—Notwithstanding the provisions thereof, no person, persons, partnership, association, corporation or other legal entity, or any combination thereof, directly or indirectly engaged in the business of burying the dead shall have or obtain, directly or indirectly, any insurable interest in the life of any person by virtue of Sections 1 or 2 hereof, or shall have an insurable interest in the life of any person unless such insurable interest be established under and by virtue of other applicable statutory or common law.

Sec. 4. Cumulative Effect; Liberal Construction.—The provisions of this Act are cumulative of existing law in Texas, statutory and otherwise, on the question of insurable interest. This Act is enacted in specific recognition of the provisions of Article 21.23 of the Texas Insurance Code, 1951, that the interest of any beneficiary in a life insurance policy is forfeited if the beneficiary is the principal or an accomplice in bringing about the death of the insured.

This Act shall be liberally construed to effectuate its purposes, and its provisions are not to be limited or restricted by previous declarations or holdings of the Courts of Texas defining the term insurable interest. Acts 1953, 53rd Leg., p. 400, ch. 113.

Effective 90 days after May 27, 1953, date of adjournment.

Section 5 of the Act of 1953 provided that partial invalidity should not affect the remaining provisions of the Act.

Title of Act:

An Act providing that designated beneficiaries or owners shall have an insurable interest in the life of the person who makes such designation in an application for life insurance on his life; that designated beneficiaries, transferees or assignees shall have an insurable interest in the life of the person who makes such designation in the manner permitted by a policy of life insurance on his life; ex-

empting persons engaged in the business of burying the dead from the provisions of the Act; providing that the provisions of the Act are cumulative of existing law; providing for partial invalidity; and declaring an emergency. Acts 1953, 53rd Leg., p. 400, ch. 113.

Art. 3.50. Group Life Insurance

Sec. 1. Definitions.

(3) A policy issued to an incorporated city, town or village, an independent school district, State colleges or universities, any association of State employees, any association of State and County employees, and any Department of the State Government which employer or association shall be deemed the policyholder to insure the employees of any such incorporated city, town or village, of any such independent school district, of any such State college and university, of any such department of the State Government, members of any association of State and County employees for the benefit of persons other than the policyholder subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer or all of any class or classes thereof determined by conditions pertaining to their employment.

(b) The premium for the policy shall be paid by the policyholder wholly from funds contributed by the insured employees; provided, however, that any moneys or credits received by or allowed to the policyholder pursuant to any participation agreement contained in or issued in connection with the policy shall be applied to the payment of future premiums and to the pro rata abatement of the insured employees' contributions therefor; and provided further, that the employer may deduct from the employees' salaries the required contributions for the premiums when authorized in writing by the respective employees so to do. Such policy may be placed in force only if at least seventy-five per cent (75%) of the eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required premium contributions and become insured thereunder.

(c) The policy must cover at least fifteen (15) employees at date of issue.

(d) The amounts of insurance under the policy must be based on some plan precluding individual selection either by the employees or by the policy holder. As amended Acts 1953, 53rd Leg., p. 853, ch. 345, § 1.

Emergency. Effective June 8, 1953.

Section 2 of the Act of 1953 provided that partial unconstitutionality should not affect the validity of the remaining portions of the Act.

CHAPTER FIVE—RATING AND POLICY FORMS

SUBCHAPTER A. MOTOR VEHICLE OR AUTOMOBILE INSURANCE

Art. 5.01. Fixing Rate of Automobile Insurance

Every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's or other insurer, hereinafter called insurer, writing any form of motor vehicle insurance in this State, shall annually file with the Board of Insurance Commissioners, hereinafter called Board, on forms prescribed by the Board, a report showing its premiums and losses on each classification of motor vehicle risks written in this State.

The Board shall have the sole and exclusive power and authority, and it shall be its duty to determine, fix, prescribe, and promulgate just, reasonable and adequate rates of premiums to be charged and collected by all insurers writing any form of insurance on motor vehicles in this State, including fleet or other rating plans designed to discourage losses from fire and theft and similar hazards and any rating plans designed to encourage the prevention of accidents. In promulgating any such rating plans the Board shall give due consideration to the peculiar hazards and experience of individual risks, past and prospective, within and outside the State and to all other relevant factors, within and outside the State. The Board shall have the authority also to alter or amend any and all of such rates of premiums so fixed and determined and adopted by it, and to raise or lower the same or any part thereof.

Said Board shall have authority to employ clerical help, inspectors, experts, and other assistants, and to incur such other expenses as may be necessary in carrying out the provisions of this law; provided, however, that the number of employees and salary of each shall be fixed in the General Appropriation Bill passed by the Legislature. The Board shall ascertain as soon as practicable the annual insurance losses incurred under all policies on motor vehicles in this State, make and maintain a record thereof, and collect such data as will enable said Board to classify the various motor vehicles of the State according to the risk and usage made thereof, and to classify and assign the losses according to the various classes of risks to which they are applicable; the Board shall also ascertain the amount of premiums on all such policies for each class of risks, and maintain a permanent record thereof in such manner as will aid in determining just, reasonable and adequate rates of premiums.

Motor vehicle or automobile insurance as referred to in this subchapter shall be taken and construed to mean every form of insurance on any automobile or other vehicle hereinafter enumerated and its operating equipment or necessitated by reason of the liability imposed by law for damages arising out of the ownership, operation, maintenance, or use in this State of any automobile, motorcycle, motorbicycle, truck, truck-tractor, tractor, traction engine, or any other self-propelled vehicle, and

including also every vehicle, trailer or semi-trailer pulled or towed by a motor vehicle, but excluding every motor vehicle running only upon fixed rails or tracks. Workmen's Compensation Insurance is excluded from the foregoing definition. As amended Acts 1953, 53rd Leg., p. 64, ch. 50, § 2.

Emergency. Effective April 1, 1953.

Art. 5.04. Experience as Factor

To insure the adequacy and reasonableness of rates the Board may take into consideration past and prospective experience, within and outside the State, and all other relevant factors, within and outside the State, gathered from a territory sufficiently broad to include the varying conditions of the risks involved and the hazards and liabilities assumed, and over a period sufficiently long to insure that the rates determined therefrom shall be just, reasonable and adequate, and to that end the Board may consult any rate making organization or association that may now or hereafter exist. As amended Acts 1953, 53rd Leg., p. 64, ch. 50, § 3.

Emergency. Effective April 1, 1953.

Art. 5.05. Reports on Experience

(a) Recording and Reporting of Loss Experience and Other Data.

The Board shall, after due consideration, promulgate reasonable rules and statistical plans, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss experience and such other data as may be required, in order that the total loss and expense experience of all insurers may be made available at least biennially in such form and detail as may be necessary to aid in determining whether rates comply with the standards set forth in Article 5.04. In promulgating such rules and plans, the Board shall have due regard for the rates approved by it, and in order that such rules and plans may be as uniform as is practicable, to the rules and to the form of the plans used in other states. The Board may designate one or more rating organizations or other agencies to gather and compile such experience.

(b) Interchange of Rating Plan Data.

Reasonable rules and plans may be promulgated by the Board after due consideration, requiring the interchange of loss experience necessary for the application of rating plans.

(c) Consultation with other States.

In order to further uniform administration of rating laws, the Board and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult and cooperate with them with respect to rate-making and the application of rating systems.

(d) The Commissioner is hereby authorized and empowered to require sworn statements from any insurer affected by this Act, showing its experience on any classification or classifications of risks and such other information which may be necessary or helpful in determining proper classification and rates or other duties or authority imposed by law. The Commissioner shall prescribe the necessary forms for such statements and reports, having due regard to the rules, methods and forms in use in other states for similar purposes in order that uniformity of statistics may not be disturbed. As amended Acts 1953, 53rd Leg., p. 64, ch. 50, § 4.

Emergency. Effective April 1, 1953.

Art. 5.09. Discriminations or Distinctions

No insurer coming within the terms of this subchapter shall, in its business in this State, make or permit any distinction or discrimination in favor of the insured having a like hazard, in the matter of the charge of premiums for insurance, or in dividends or other benefits payable under any policy, nor shall any such insurer or agent make any contract of insurance, or agreement as to such insurance, other than expressed in the policy, nor shall any such insurer or its agents or representatives pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insured, any rebate payable upon the policy or any special favor or advantage in dividends or other benefits to accrue, or anything of value whatsoever, not specified in the policy; provided that nothing in this subchapter shall be construed to prohibit the modification of rates by rating plans designed to encourage the prevention of accidents, and to take account of the peculiar hazards and experience of individual risks, past and prospective, within and outside the State, and of all other relevant factors, within and outside the State, provided such plan shall have been approved by the Board. As amended Acts 1953, 53rd Leg., p. 64, ch. 50, § 5.

Emergency. Effective April 1, 1953.

Art. 5.11 Hearing on Grievances

Any policyholder or insurer shall have the right to a hearing before the Board on any grievance occasioned by the approval or disapproval by the Board of any classification, rate, rating plan, endorsement or policy form, or any rule or regulation established under the terms hereof, such hearing to be held in conformity with rules prescribed by the Board. Upon receipt of request that such hearing is desired, the Board shall forthwith set a date for the hearing, at the same time notifying all interested parties in writing of the place and date thereof, which date, unless otherwise agreed to by the parties at interest, shall not be less than ten (10) nor more than thirty (30) days after the date of said notice. Any party aggrieved shall have the right to apply to any court of competent jurisdiction to obtain redress.

No hearing shall suspend the operation of any classification, rate, rating plan or policy form unless the Board shall so order. As amended Acts 1953, 53rd Leg., p. 64, ch. 50, § 6.

Emergency. Effective April 1, 1953.

SUBCHAPTER D. WORKMEN'S COMPENSATION INSURANCE

Art. 5.55. Workmen's Compensation Rates

The Board shall make, establish and promulgate all classifications of hazards, rates of premiums and rating plans respectively applicable to each, contemplated and provided for by Title 130, known as the Workmen's Compensation Law [1] and/or by the "Longshoremen's and Harbor Workers' Compensation Act" [2] as enacted by the Congress of the United States. Said Board shall publish all rates and rating plans promulgated by it as affecting Compensation Insurance in this State, and said rates and rating plans, or any change therein, shall be published fifteen (15) days before they become effective and in force. As amended Acts 1953, 53rd Leg., p. 64, ch. 50, § 7.

1 Vernon's Ann.Civ.St. art. 8306 et seq.

2 33 U.S.C.A. § 901 et seq.

Emergency. Effective April 1, 1953.

Art. 5.58. Rate Administration

(a) Recording and Reporting of Loss Experience and other data.

The Board shall, after due consideration, promulgate reasonable rules and statistical plans, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss experience and such other data as may be required, in order that the total loss and expense experience of all insurers may be made available at least biennially in such form and detail as may be necessary to aid in determining whether rates comply with the standards set forth in Article 5.60. In promulgating such rules and plans, the Board shall have due regard for the rates approved by it, and in order that such rules and plans may be as uniform as is practicable, to the rules and to the form of the plans used in other states. The Board may designate one or more rating organizations or other agencies to gather and compile such experience.

(b) Interchange of Rating Plan Data.

Reasonable rules and plans may be promulgated by the Board after due consideration, requiring the interchange of loss experience necessary for the application of rating plans.

(c) Consultation with other States.

In order to further uniform administration of rating laws, the Board and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult and cooperate with them with respect to rate-making and the application of rating systems.

(d) Rules and Regulations.

The Board may make reasonable rules and regulations necessary to effect the purposes of this subchapter. As amended Acts 1953, 53rd Leg., p. 64, ch. 50, § 8.

Emergency. Effective April 1, 1953.

Art. 5.60. Rating

The Board shall determine hazards by classes and fix such rates of premium applicable to the payroll in each of such classes as shall be adequate to the risks to which they apply and consistent with the maintenance of solvency and the creation of adequate reserves and a reasonable surplus, and for such purpose may adopt rating plans designed to encourage the prevention of accidents and to take account of the peculiar hazard and experience of individual risks, past and prospective, within and outside the State, and all other relevant factors, within and outside the State, provided such rate shall be fair and reasonable and not confiscatory as to any class of insurance carriers authorized by law to write Workmen's Compensation Insurance in this State. To insure the adequacy and reasonableness of rates, the Board shall take into consideration the experience, past and prospective, within and outside the State, and all other relevant factors, within and outside the State, gathered from a territory sufficiently broad to include the varying conditions of the industries in which the classifications are involved, and over a period sufficiently long to insure that the rates determined therefrom shall be just, reasonable, and adequate rates. As amended Acts 1953, 53rd Leg., p. 64, ch. 50, § 9.

Emergency. Effective April 1, 1953.

Art. 5.65. Hearing Before Board

Any policyholder, insurance company, or association shall have the right to a hearing before the Board on any grievance occasioned by the

promulgation of any classification, rate, rating plan or policy form by the Board; such hearing to be held in conformity with rules to be prescribed by the Board. No hearing shall suspend the operation of any classification, rate, rating plan or policy form unless the Board shall so order. Provided that any party aggrieved shall have the right to apply to any court of competent jurisdiction to obtain redress. As amended Acts 1953, 53rd Leg., p. 64, ch. 50, § 10.

Emergency. Effective April 1, 1953.

Amendment by Acts 1953, 53rd Leg., p. 716, ch. 279, § 2, see art. 5.65, post

Art. 5.65. Hearing Before Board

Any policyholder, applicant for insurance, insurance company or association shall have the right to a hearing before the Board on any grievance occasioned by the promulgation of any classification, rate, policy form, rule, regulation, order or other action by the Board under this Sub-chapter, or on any decision or order of the Administrative Agency established under Article 5.76 of this Code; such hearing to be held in conformity with rules to be prescribed by the Board. No hearing shall suspend the operation of any classification, rate, policy form, rule, regulation, order or other action by the Board under this Sub-chapter or of any decision or order of said Administrative Agency, unless the Board shall so order. Provided that any party aggrieved shall have the right to apply to any court of competent jurisdiction to obtain redress. As amended Acts 1953, 53rd Leg., p. 716, ch. 279, § 2.

Emergency. Effective July 1, 1953.

Amendment by Acts 1953, 53rd Leg., p. 64, ch. 50, § 10, see art. 5.65, ante

G. WORKMEN'S COMPENSATION AND LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION INSURANCE

Art. 5.76. Prevention of Injuries and Assignment of Rejected Risks

(a) The words "company" and "association" used in this Sub-chapter shall mean the Texas Employers' Insurance Association, or any stock company, or any mutual company, or any reciprocal, or any inter-insurance exchange, or Lloyds association authorized to write Workmen's Compensation and/or Longshoremen's and Harbor Workers' Compensation Insurance in this State. The words "Board" shall mean the Board of Insurance Commissioners of this State.

(b) For the purpose of carrying into effect the provisions of this Article, and with the approval of the Board, there shall be organized and maintained in this State, by insurance companies and associations as defined herein, an Administrative Agency to be known as "The Texas Workmen's Compensation Assigned Risk Pool" (hereinafter referred to as "Agency"), and every such company and association shall be a member of the Agency. Provided, that any company or association not engaged in writing such insurance for members of the public generally shall, upon being so certified by the Board and under such conditions and for such time as the Board may determine, be exempt from the provisions of this Article during the period of any such certification.

(c) It shall be the duty of companies and associations, members of the Agency established pursuant to paragraph (b) of this Article, to provide insurance, in the manner herein provided, for any risk under the Workmen's Compensation Law of Texas [1] and/or the Longshoremen's and

Harbor Workers' Compensation Act,[2] which risk shall have been tendered to and rejected by any member of said Agency. From and after the date the rules made and adopted under paragraph (e) have been approved by the Board the procedures and remedies established under this Article shall be the sole and exclusive procedure and remedies, either at law or in equity, of any applicant for such insurance whose insurance has been rejected or cancelled by any company or association.

(d) When any such rejected risk is called to the attention of said Agency and it appears that said risk is in good faith entitled to insurance, said Agency shall calculate the deposit premium therefor in accordance with the classifications and rates promulgated by the Board and upon payment thereof, the Agency shall designate a member whose duty it shall be to issue a policy on such form and for such limits of liability as shall be prescribed by the Board as provided in paragraph (g) of this Article, but the undertakings of said policy shall be entirely reinsured by all members of said Agency, and the liability of the member issuing said policy shall be limited to its liability as a reinsurer. On all such policies all members of said Agency shall be reinsurers as among themselves in proportion to the amount which the premiums on such insurance written in this State during the preceding calendar year by such member bears to the total such premiums written in this State during the preceding calendar year by all members of said Agency, and each said policy may be endorsed to reflect the plan of reinsurance hereinabove provided.

(e) The Agency shall make and adopt such rules as may be necessary to carry this Article into effect, subject to the approval of the Board.

(f) As a prerequisite to the writing of such insurance in this State every company and association, members of the Agency established pursuant to paragraph (b) of this Article, shall file with the Board written authority permitting said Agency to act in its behalf, as provided in this Article.

(g) The Board, in addition to the provisions prescribed by Subchapter (d) is hereby authorized and empowered to determine, fix, prescribe, promulgate, change, or amend policy forms, endorsements, rates, rating plans or minimum premiums normally applicable to a risk so as to apply to any and every risk assigned by said Agency such policy forms, endorsements, rates, rating plans and minimum premiums as are commensurate with the greater hazard of the risk, considering in connection therewith, the experience, physical or other conditions of such risk. In promulgating a rate or rates for any risk or risks assigned by said Agency the Board shall give due consideration to an appropriate allowable for losses, claims expense, audit expenses, taxes, general administration expense, acquisition expense, inspection expense, an allowance for profit and contingencies, and any other relevant factors in connection with insuring and servicing such risk or risks.

(h) Any company or association may make and enforce reasonable rules for the prevention of injuries to employees of its policyholders or applicants for insurance under the Workmen's Compensation Act. For this purpose, representatives of any such company or association, and representatives of the Board, shall be granted free access to the premises of each such policyholder or applicant during regular working hours. Failure or refusal by any such policyholder or applicant to comply with any such reasonable rule for the prevention of injuries as shall be prescribed by the Agency, together with such other relevant factors, shall determine the issue of whether said policyholder or applicant in good faith is entitled to such insurance. Any policyholder or applicant ag-

grieved by any such rule for the prevention of injuries may, within thirty (30) days after notice of such rule, petition the Board for a review, and the Board, upon a hearing held after notice and in conformity with Article 5.65 of this Code, shall affirm, modify or annul such rule. Added Acts 1953, 53rd Leg., p. 716, ch. 279, § 1.

1 Vernon's Ann.Civ.St. art. 8306 et seq.
2 33 U.S.C.A. § 901 et seq.

Emergency. Effective July 1, 1953.

Section 4 of the Act of 1953 repealed section 18 of Article 8308. Section 5 repealed all inconsistent laws or parts of laws. Section 6 provided that partial invalidity should not affect words, etc., not held invalid. Section 7 provided that the Act should take effect July 1, 1953.

SUBCHAPTER H. PREMIUM RATING PLANS

Art. 5.77.[1] Premium Rating Plans; Powers of Board

The Board of Insurance Commissioners is hereby authorized and empowered to make or approve and promulgate premium rating plans designed to encourage the prevention of accidents, to recognize the peculiar hazards of individual risks and to give due consideration to interstate as well as intrastate experience of such risks for Workmen's Compensation, Motor Vehicle and other lines of Casualty Insurance to be applicable separately for each class of insurance, or in combination of two or more of such classes. Such plans may be approved on an optional basis to apply prospectively, or retrospectively and may include premium discount plans, retrospective rating plans or other systems, plans or formulas, however named, if the rates thereby provided are not excessive, inadequate or unfairly discriminatory. The Board shall also have authority to make or approve and promulgate such reasonable rules and regulations as may be necessary, not in conflict with provisions of this Act. Acts 1953, 53rd Leg., p. 64, ch. 50, § 1.

1 Not enacted as part of the Insurance Code.

Emergency. Effective April 1, 1953.

Sections 11 and 11A of the amendatory Act of 1953 read as follows:

"Sec. 11. This Act shall be cumulative of existing laws but in the event of conflict between the provisions of this Act and the provisions of any existing law, the provisions of this Act shall prevail, and all laws, or parts of laws, in conflict with the provisions of this Act are hereby repealed to the extent of such conflict.

"Sec. 11A. Nothing in this Act shall be construed to affect in any way any pending litigation."

Art. 5.78 [1] Consideration of All Relevant Factors

Before the Board of Insurance Commissioners approves class rates or rating plans, due consideration shall be given to all relevant factors to the end [2] that no unfair discrimination shall exist in class rates or rating plans as they may affect risks of various size. Acts 1953, 53rd Leg., p. 64, ch. 50, § 1a.

1 Not enacted as part of the Insurance Code.
2 Word "and" should probably be inserted.

Art. 5.79 [1] Optional Selection and Application

If for any form of casualty insurance affected by this Act more than one rating plan is approved for optional selection and application, the selection of the plan shall rest with the applicant. Acts 1953, 53rd Leg., p. 64, ch. 50, § 1b.

1 Not enacted as part of the Insurance Code.

CHAPTER ELEVEN—MUTUAL LIFE INSURANCE COMPANIES

Art. 11.02. Certificate of Authority

If the Attorney General approves such articles of incorporation, he shall so certify thereon in writing and return them to the Board of Insurance Commissioners, which shall file the same in its office.

The Board shall thereupon immediately make, or cause to be made, at the expense of the company, a full and thorough examination thereof. If it finds that the company has complied with all applicable laws and is possessed of surplus of not less than Twenty-five Thousand ($25,000.00) Dollars paid in by one or more of the directors named in the charter under the conditions specified in Article 11.16 of this code, and that such surplus is in the custody of the officers, either in cash or securities of the class in which such companies are authorized to invest or loan their funds, it shall issue to such company a certificate of authority to transact a life, health or accident insurance business within this State as such officers may apply for and as may be authorized by its charter issued pursuant to Article 11.10 of this Chapter; which certificate shall be issued for a period of not more than fifteen (15) months and not extending more than ninety (90) days beyond the last day of February next after the date of its issuance, on which date such certificate shall expire by its terms unless revoked or suspended according to law. The foregoing requirement as to surplus shall not affect or apply to mutual assessment companies or associations which may convert to mutual legal reserve companies under the provisions of Article 11.10 of the Insurance Code as amended by this Act, and such companies shall continue to be governed by said Article 11.10 as so amended. No original or first certificate of authority shall be granted, except in conformity herewith. Provided further, that all insurance over One Thousand ($1,000.00) Dollars on each or any life shall be re-insured so long as the surplus above provided shall be between Twenty-five Thousand ($25,000.00) Dollars and Fifty Thousand ($50,000.00) Dollars; and further provided, that all insurance over and above Five Thousand ($5,000.00) Dollars on each and every life shall be re-insured when said surplus shall be between Fifty Thousand ($50,000.00) Dollars and One Hundred Thousand ($100,000.00) Dollars; and after said surplus passes One Hundred Thousand ($100,000.00) Dollars, no re-insurance shall be required.

Section 1aa. All companies in existence now shall increase their surplus to Twenty-five Thousand ($25,000.00) Dollars within the next five (5) years. As amended Acts 1953, 53rd Leg., p. 1010, ch. 415, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Sections 5 and 6 of the Act of 1953 read as follows:

"Sec. 5. The foregoing amendments to Articles 11.02, 11.10, 11.12, and 11.17, shall not apply to or affect any company now doing business under the laws amended, and such companies shall continue to be governed by the regulatory provisions of the laws in effect immediately prior to these amendments.

"Sec. 6. If any section or portion of section of this Act 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."

Art. 11.10. Mutual Assessment Companies May Convert

Mutual assessment companies and associations organized and operating under the laws of this State on May 17, 1943, which desire to convert to mutual legal reserve companies and qualify under Chapter Eleven of the Insurance Code shall be subject to the following surplus and contingency reserve requirements:

A minimum of Five Thousand ($5,000.00) Dollars for each One Million ($1,000,000.00) Dollars or less of insurance in force and an additional Two Thousand, Five Hundred ($2,500.00) Dollars for each additional One Million ($1,000,000.00) Dollars of insurance in force, with a maximum of Fifty Thousand ($50,000.00) Dollars.

And further provided that such converted mutual assessment associations shall within five (5) years from the date of conversion bring the maximum surplus and contingency reserve to Five Thousand ($5,000.00) Dollars for each One Million ($1,000,000.00) Dollars of insurance in force, with a maximum surplus and contingency reserve requirement in all cases of Twenty-five Thousand ($25,000.00) Dollars, such increase to be at the rate of at least twenty (20%) per cent each year from such conversion date; provided, however, that the Board of Insurance Commissioners shall have the discretion to extend the time for such increase.

Providing further, that nothing in this article or in the provisions of this chapter or Chapter 3 of this code shall ever be construed to mean that any of the associations or similar concerns, by whatsoever name or class designated, whether specifically named herein or not, shall be required by the Board of Insurance Commissioners to make the change herein provided for unless they voluntarily decide to do so, and that this article is purely permissive and if such associations do not so voluntarily decide to come under this Chapter, then this Chapter shall not in any way apply to such associations. As amended Acts 1953, 53rd Leg., p. 1010, ch. 415, § 2.

Art. 11.12. Surplus and Dividends

Each such company shall make an annual accounting and apportionment of divisible surplus to each policyholder, beginning not later than the end of the second policy year on all policies issued; and each such policyholder shall be entitled to and credited with or paid such portion of the entire divisible surplus as may be equitably apportioned to his policy. Upon the 31st day of December of each year, or as soon thereafter as may be practicable, each such company shall truly ascertain the surplus earned by it during such year; and after setting aside from such surplus such portion thereof as the Board of Insurance Commissioners may approve for retirement of any unpaid advances theretofore made pursuant to Article 11.16 of this chapter and after deducting the contingency reserve provided for in this chapter, it shall apportion to each of its policies upon which all premiums due and payable for at least two (2) years have been paid, an equitable proportion of the remainder of such surplus, and shall immediately submit a detailed report of such apportionment under oath of its president or secretary to the Board of Insurance Commissioners. If such Board shall find such apportionment to be equitable and just to the policyholders and in accordance with the provisions of this chapter, it shall approve the same, and it shall become effective. If it shall not approve such apportionment, it shall make such changes therein as it shall deem equitable and just and necessary to make the same comply with the provisions of this chapter, and shall certify such changes to such company, whereupon such apportionment as changed by such Board shall become effective. Each dividend declared as aforesaid shall be paid in cash, or in the equivalent of its cash value in any option stated in the policy and selected by the policyholder, notice of which selection by the policyholder shall be given to the company in writing. It is provided, however, that no converted mutual assessment company or association shall be required to pay dividends to policyholders until the maximum surplus and contin-

gency reserve requirements have been met by the converted mutual assessment company or association. As amended Acts 1953, 53rd Leg., p. 1010, ch. 415, § 3.

Art. 11.17. Liabilities

At any time when the assets of any such company shall be in excess of its liabilities, computing its reserve liability upon the mortality tables and the interest rates specified in its policy contracts, by less than One Hundred Thousand ($100,000.00) Dollars surplus required by the provisions of Article 11.02, the company shall cease the issuance of new policies until the impairment of such surplus shall be made good. It is the purpose and intention of this, and related sections, to require such companies to keep and maintain unimpaired at all times a minimum of One Hundred Thousand ($100,000.00) Dollars in free surplus. The foregoing requirement as to surplus shall not affect or apply to mutual assessment companies or associations which may convert to mutual legal reserve companies under the provisions of Article 11.10 of the Insurance Code as amended by this Act, and such companies shall continue to be governed by said Article 11.10 as so amended.

Whenever the liabilities of any mutual legal reserve company, computing its reserve liability upon the mortality tables and interest rates specified in its policy contracts, exceeds its assets, the Board of Insurance Commissioners may request the Attorney General to file suit in the name of the State in the District Court of the county in which such company is located, for the appointment of a receiver to terminate and liquidate the affairs of the company, and such action may be maintained. In any such action, such District Court, or the Judge thereof, in vacation, shall have the power, if in his opinion the interests of the policyholders of the company require it, to enter an order for the reinsurance of all outstanding risks of such company in some other life insurance company authorized to do business in this State upon such terms and conditions as may be approved by the Board of Insurance Commissioners, and by such court, or the Judge thereof, in vacation, and such court or Judge may for that purpose direct the conveyance of the entire assets of any such company, or any portion thereof, to such reinsuring company in consideration of such reinsurance. As amended Acts 1953, 53rd Leg., p. 1010, ch. 415, § 4.

CHAPTER SIXTEEN—FARM MUTUAL INSURANCE COMPANIES

Art. 16.06. Conditions of Incorporation

(b) Not less than One ($1.00) Dollar for each One Hundred ($100.00) Dollars of insurance applied for at the time of incorporation, in cash or securities in which the reserve fund of stock fire insurance companies may be invested. As amended Acts 1953, 53rd Leg., p. 1020, ch. 421, § 1.

Emergency. Effective June 13, 1953. Section 4 of the Act of 1953 provided that partial invalidity would not affect the validity of other parts of the Act.

Art. 16.07. Location of Business

A farm mutual insurance company may write insurance (a) in the county where its home office is located at the time of incorporation and in any county adjoining the county in and for which it is organized; or (b) in any county in which no farm mutual insurance company has been

organized; or (c) anywhere in Texas if its reserve fund exceeds the sum of Fifty Thousand ($50,000.00) Dollars in cash or securities in which the reserve fund of stock fire insurance companies may be invested; provided, however, that the provisions of this amendatory article shall not apply to any farm mutual insurance company now organized and operating in Texas and that as to all such farm mutual insurance companies now organized and operating, the provisions of the present Article 16.07 of Chapter 16 of the Insurance Code shall remain in full force and unaffected by the provisions of this amendatory Act. As amended Acts 1953, 53rd Leg., p. 1020, ch. 421, § 2.

Art. 16.11. By-Laws

(a) The by-laws shall state the time and manner of the levy and payment of all premiums or assessments for all insurance written by the company.

(b) They shall also fix the liability of the policyholders for all losses accrued while the policies are in force in addition to the regular premium or assessments for the same and the time and manner of the payment of such liability; provided that the amount of such contingent liability shall never be less than One ($1.00) Dollar for each One Hundred ($100.00) Dollars of insurance in such policy.

(c) Farm mutual companies may adopt all rules, regulations, provisions and requirements contained in the standard policies of companies writing fire or windstorm insurance as promulgated from time to time by the Board of Insurance Commissioners, insofar as they are applicable to farm mutual insurance companies, as a part of their by-laws and contracts of insurance, which adoption shall be evidenced either by statement to that effect in the by-laws or in the policies.

(d) The by-laws may also provide that when a loss occurs, the companies may, at their option, provide and require that all or a certain per cent of the money to be paid for the loss be put back into a replacement or repair of the property damaged or destroyed, provided such provision may be equally made applicable to real and personal property and property exempt from execution such as homesteads or buildings on the homestead and exempt personal property. Provided also, that farm mutual companies may in their by-laws provide that the requirements of Article 6.13 of this Code shall not be applicable to their contracts of insurance. As amended Acts 1953, 53rd Leg., p. 1020, ch. 421, § 3.

CHAPTER SEVENTEEN—COUNTY MUTUAL INSURANCE COMPANIES

Art. 17.05. Conditions of Incorporation

Before a charter shall be granted a county mutual insurance company, the incorporators must have on hand:

(a) Not less than twenty-five (25) applications in writing for insurance on not less than one hundred (100) separate risks; provided that no one risk shall be for more than one (1%) per cent of the total amount of insurance applied for in the new company, and that a separate risk shall be one or more items of real or personal property which is not exposed to any other property on which insurance is applied for in the new company;

(b) Not less than One ($1.00) Dollar for each One Hundred ($100.00) Dollars of insurance applied for at the time of incorporation, in cash or securities in which the reserve funds may be invested;

(c) Not less than Ten Thousand ($10,000.00) Dollars in free surplus which shall be in cash or securities in which its reserve funds may be invested, if the company is organized to write insurance locally in the county of its domicile and any adjoining counties; if such company is organized to write insurance in any county within this State, its surplus requirement as provided herein shall be Twenty-Five Thousand ($25,000.00) Dollars in cash or securities in which its reserve funds may be invested; and

(d) Said application for charter shall also be accompanied by a copy of the by-laws of the company, and the bond of the secretary or manager of the same in such sum and conditioned as the Board may determine.

When the foregoing requirements have been complied with to the satisfaction of the Board of Insurance Commissioners, the Board, upon the payment of a fee of Fifty ($50.00) Dollars, shall issue such company a charter to do business as an incorporated company. As amended Acts 1953, 53rd Leg., p. 540, ch. 196, § 1.

Emergency. Effective May 22, 1953.

Section 10 of the amendatory Act of 1953 provided that partial invalidity should not affect the validity of other portions of the Act.

Art. 17.06. By-Laws; Additional Provisions

The by-laws shall state the time and manner of the levy and payment of all premiums or assessments for all insurance written by the company.

They shall also fix the liability of the policyholders for all losses accrued while the policies are in force, in addition to the regular premium or assessments for the same and the time and manner of the payment of such liability; the amount of such liability shall never be less than One ($1.00) Dollar for each One Hundred ($100.00) Dollars of insurance in such policy. Such by-laws shall provide that the regular premium specified in the policy contract on all forms of insurance shall constitute the policyholders' entire liability while, but only while, the company is possessed of assets in the sum sufficient to discharge all liabilities including reserves required by Article 17.11.

County mutual companies may adopt all rules, regulations, provisions and requirements contained in the standard policies of companies writing fire, gas explosion, lightning, windstorm or hail insurance as promulgated from time to time by the Board of Insurance Commissioners of the State of Texas insofar as they are applicable to county mutual insurance companies, as a part of their by-laws and contracts of insurance, which adoption shall be evidenced either by statement to that effect in the by-laws or in the policies.

The by-laws may also provide that when a loss occurs, the companies may at their option provide and require that all or a certain per cent of the money to be paid for the loss be put back into a replacement or repair of the property damaged or destroyed, provided such provision may be equally made applicable to real and personal property and property exempt from execution, such as homesteads or buildings on the homestead and exempt personal property. County mutual companies may in

their by-laws provide that the requirements of Article 6.13 of this code shall not be applicable to their contracts of insurance. As amended Acts 1953, 53rd Leg., p. 540, ch. 196, § 2.

Art. 17.11. Financial Requirements

There shall be maintained at all times such reserves as the laws of this State or the lawful regulations of the Board of Insurance Commissioners now or hereafter require to be maintained by stock fire insurance companies.

There shall be maintained at all times assets in the sum sufficient to discharge all liabilities, including reserves, and to provide a surplus over all liabilities, including reserves of not less than Ten Thousand ($10,000.00) Dollars if the company is operating locally in the county of its organization or adjoining counties, and not less than Twenty-Five Thousand ($25,000.00) Dollars if the company is operating on a statewide basis. Such reserves and surplus shall be maintained in cash or securities of the kind in which stock fire insurance companies are authorized by law to invest or lend their reserve funds.

Any county mutual insurance company whose surplus as herein required shall be less than such minimum requirements, shall cease issuance of new policies until such minimum surplus is restored either by profits from operation or by contributions to such surplus made in the manner provided in Article 17.17. As amended Acts 1953, 53rd Leg., p. 540, ch. 196, § 3.

Art. 17.16. Location of Business

A county mutual insurance company possessed of Ten Thousand ($10,000.00) Dollars or more in surplus, as provided in Article 17.11, may write insurance in any county adjoining the county in and for which it is organized; and such company possessing as much as Twenty-five Thousand ($25,000.00) Dollars in such surplus may write insurance anywhere within this State. As amended Acts 1953, 53rd Leg., p. 540, ch. 196, § 4.

Art. 17.17. Advancements to the Company

One or more of the policyholders of the company may advance to the company such funds as are necessary for the purposes of its business or to enable it to comply with any requirement of this Chapter, including the surplus requirement of Article 17.11, and such moneys and interest thereon as may have been agreed upon, not exceeding ten (10%) per cent per annum, shall be payable, subject to the approval of the Board of Insurance Commissioners, only out of the surplus remaining, after providing for all reserves, other liabilities and required surplus, and shall not otherwise be a liability or claim against the company or any of its assets. No commission or promotion expense, or other bonus, shall be paid in connection with the advance of any such money to the company, and the amount of all such advances shall be reported in each annual statement. As amended Acts 1953, 53rd Leg., p. 540, ch. 196, § 5.

Art. 17.25. County Mutual Insurance Companies

Sec. 4. Deposit.—Each such company shall place with the State Treasurer through the Board of Insurance Commissioners a deposit equal to the largest amount assumed on any one risk, or upon a showing or reinsurance acceptable to the Board, the largest amount retained on any

one risk after re-insurance, which deposit may be in cash or in convertible securities subject to approval of the Board. Such deposit shall be liable for the payment of all judgments against the company, and subject to a garnishment after final judgment against the company. When such deposit becomes impounded or depleted it shall at once be replenished immediately on demand by the Board, or the company may be regarded as insolvent.

When any company shall desire to state in advertisements, letters, literature or otherwise, that it has made a deposit with the Board as required by law, it must also state in full the purpose of the deposit, the conditions under which it is made, and the exact amount and character thereof. As amended Acts 1953, 53rd Leg., p. 540, ch. 196, § 6.

Sec. 7. **Organizers' Permit.**—The Board shall make investigation of the individuals who shall make application for a charter under and in the manner provided by Article 17.03. When the Board shall be satisfied that the organizers are responsible persons and of the probability that the territory to be served can support such company, that the articles of association, constitution, by-laws, and certificates are in proper form as prescribed by this Article and so worded as not to be misleading to the policyholders and the public, that the statutory deposit has been posted in the required amount, that the company is possessed of the minimum reserve requirement set out in Article 17.11, and the bond shall have been approved, it shall issue a permit to the organizers authorizing them to solicit applications for insurance as provided under Article 17.05. As amended Acts 1953, 53rd Leg., p. 540, ch. 196, § 7.

Sec. 9. **Agents' License.**—Such company shall also file with the Board, and secure license for, each of its agents, or solicitors, upon payment of license fee of Two ($2.00) Dollars for each agent or solicitor, under the provisions of Article 21.07 of this Code. As amended Acts 1953, 53rd Leg., p. 540, ch. 196, § 8.

Sec. 22. **Existing Companies; Compliance with Law.**—All county mutual insurance companies operating under the provisions of Chapter 17 of this code as enacted in Senate Bill No. 236, 52nd Legislature, and licensed by the Board at the effective date of this Article, shall have until May 31, 1954 to comply with the requirements of this Act. Any such company which shall fail to so comply shall not thereafter write new business or issue new policies until such requirements are met. Any company failing to qualify may continue under the Articles amended by this Act insofar as business on its books at May 31, 1954 is concerned, and may be so licensed; but no county mutual insurance company shall ever write new business or issue new policies after May 31, 1954 until the requirements of Chapter 17 of this code as amended herein are complied with; provided, however, that the provisions of this Act shall not apply to any county mutual insurance company now organized and operating as a county mutual fire insurance company whose business is devoted exclusively to the writing of industrial fire insurance policies covering dwellings, household goods and wearing apparel on a weekly, monthly or quarterly basis on a continuous premium payment plan.

Provided further, that this exemption shall apply only so long as said companies are engaged exclusively in the writing of such industrial fire insurance policies. Added Acts 1953, 53rd Leg., p. 540, ch. 196, § 9.

TITLE 82—JUVENILES

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) inhabitants 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 Twelve Hundred ($1200.00) 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 hereinafter 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) 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 ($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.

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 ($600.00) Dollars per annum nor more than Twenty-five Hundred ($2500.00) 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) inhabitants 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 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. 63, ch. 33, § 1; Acts 1949, 51st Leg., p. 381, ch. 202, § 1; Acts 1949, 51st Leg., p. 699, ch. 366, § 1; Acts 1953, 53rd Leg., p. 58, ch. 47, § 1.

Emergency. Effective April 1, 1953.

Sections 2 and 3 of the amendatory Act of 1953 read as follows:

"Sec. 2. If any portion of this Act is held unconstitutional by a Court of competent jurisdiction, the remaining provisions hereof shall, nevertheless, be valid.

"Sec. 3. This Act shall be cumulative of existing laws and shall not be construed as repealing any law fixing the compensation of Judges of the District Courts or of County Judges."

Section not repealed or amended by law relating to salaries in counties of 500,000 population, see art. 3912e—4d.

Art. 5139I. Juvenile board in Washington county

Section 1. The county judge of Washington County and the judge of each judicial district which includes Washington County shall constitute the juvenile board of that county. The judge of the court which is designated as the juvenile court for Washington County shall be chairman of the board and its chief administrative officer.

Sec. 2. As compensation for the added duties hereby imposed upon him, the chairman of such board may be allowed additional compensation

not to exceed Six Hundred Dollars ($600) per year, to be fixed by the Commissioners Court and paid monthly in twelve equal installments out of the general fund of the county.

Sec. 3. This Act shall be cumulative of existing laws relating to compensation of judges of the district courts and county judges. Acts 1953, 53rd Leg., p. 589, ch. 231.

Emergency. Effective May 27, 1953.

Title of Act:

An Act creating a juvenile board for Washington County and designating the chairman thereof; authorizing an additional salary for the chairman of the juvenile board; stating the effect of this Act on existing laws; and declaring an emergency. Acts 1953, 53rd Leg., p. 589, ch. 231.

CHAPTER FIVE—HOURS OF LABOR

Art. 5165a. Weekly working hours of state office employees

Section 1. All State employees who are employed in the offices of State departments or institutions or agencies, and who are paid on a full-time salary basis shall work forty (40) hours a week. Provided, however, that the administrative heads of agencies whose functions are such that certain services must be maintained on a twenty-four (24) hours per day basis are authorized to require that such employees engaged in performing such service work forty-eight (48) hours per week.

Sec. 2. Except for the restrictions in Section 1, and except on legal holidays authorized by law, the office hours of State departments, institutions, and agencies shall be from 8:00 a.m. to 5:00 p.m. Mondays through Fridays, and these shall be the regular hours of work for all full-time employees; and headquarters office shall be open on each Saturday from 8:00 a.m. to 12:00 noon with sufficient personnel on duty to carry out any necessary business for the department, institution, or agency. Where the executive head deems it necessary or advisable, offices may also be kept open during other hours and on other days, and the time worked on such other days, including Saturday morning, shall count toward the forty (40) hours per week which are required under Section 1. It is further provided that exceptions to the minimum length of the work week may be made by the operating head of a state agency to take care of any emergency that may exist; provided, nothing herein shall apply to persons employed on an hourly basis. Acts 1953, 53rd Leg., p. 937, ch. 394.

Emergency. Effective Sept. 1, 1953.

Section 3 of the Act of 1953 provided that the Act should become effective September 1, 1953. Section 4 repealed conflicting laws and parts of laws to the extent of the conflict.

Title of Act:

An Act providing for a forty (40) hour work week for certain State employees; providing certain employees be required to work forty-eight (48) hours per week; providing for exceptions; regulating the office hours of State departments; fixing the effective date of this Act; repealing conflicting laws; and declaring an emergency. Acts 1953, 53rd Leg., p. 937, ch. 394.

CHAPTER SIX—FEMALE EMPLOYEES

Art. 5172a. Hours of work for female employees; seats; exceptions

Exceptions as to certain employments

Sec. 5. The four (4) preceding Sections shall not apply to stenographers and pharmacists, nor to mercantile establishments, nor telephone and telegraph companies in rural districts, and in cities or towns or villages of less than three thousand (3,000) inhabitants as shown by the last preceding Federal Census, nor to superintendents, matrons and nurses and attendants employed by, in and about such orphans' homes as are charitable institutions not run for profit, and not operated by the State; and all employees who are engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables; and all employees of banks, provided, however, that no female shall be employed in any bank for more than fifty-four (54) hours in any one calendar week, nor to exceed twelve (12) hours in any one day. In case of extraordinary emergencies, such as great public calamities, or where it becomes necessary for the protection of human life or property, longer hours may be worked; but for such time not less than double time shall be paid such female with her consent. Provided that any female employee who works more than forty (40) hours per week shall be entitled to receive from the employer double pay rate for all hours in excess of nine (9) hours per day, provided the employee actually works more than forty (40) hours per week. As amended Acts 1953, 53rd Leg., p. 832, ch. 335, § 1.

Emergency. Effective June 8, 1953.

CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION

Art. 5221b—5. Contributions

(c) Experience Rating: * * *

(7) If, subsequent to the twenty-seventh day of October, 1936, an employing unit becomes an employer under the terms of subsection 19 (f) (2) of this Act,[1] 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) immediately after such acquisition the successor employing unit continued operation of substantially the same organization, trade or business or part thereof acquired; and (ii) 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 (iii) 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 (iv) 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 (ii) 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; Acts 1953, 53rd Leg., p. 47, ch. 38, § 1.

1 Article 5221b—17.

Emergency. Effective March 20, 1953.

Sections 2 to 4 of the Act of 1953 read as follows:

"Sec. 2. 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.

"Sec. 3. If any word, phrase, sentence, paragraph, section or subsection of this Act shall be held invalid or unconstitutional, such holding shall not invalidate any other word, phrase, sentence, paragraph, section or subsection hereof; and the Legislature hereby expressly declares that it would have passed the remaining portions of this Act despite such invalidity.

"Sec. 4. The fact that said existing Subsection 7 (c) (7) provides an arbitrary date which is inequitable and has been construed contrary to the intention of the Legislature and the fact that it was the intention of the Legislature by the enactment of said Subsection 7 (c) (7) to correct the erroneous and inequitable construction placed upon the Subsection amended and the fact that the Legislature has intended since the date of the enactment of the Texas Unemployment Compensation Act in 1936 that two corporations, partnerships or other entities could succeed to the compensation experience of the single predecessor entity, whether before or after June Thirtieth, 1949, and the fact that under present law the Commission is required to demand that many employers pay unemployment taxes at rates many times higher than the rates to which they would be entitled in the absence of the requirement that their applications for transfer of compensation experience be received by the Commission within one hundred eighty (180) days following the date of the acquisition constitutes an inequity which should be immediately corrected and creates an emergency and an imperative public necessity requiring that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall be in full force and effect from and after the date of its passage, and it is so enacted."

TITLE 86—LANDS—PUBLIC

CHAPTER FOUR—OIL AND GAS

4. GENERAL PROVISIONS

Art. 5382a. Repealed. Acts 1953, 53rd Leg., p. 27, ch. 20, § 1. Eff. 90 days after May 27, 1953, date of adjournment

Art. 5382b—1. Validation of leases advertised for 30 days prior to act of 1949

All oil and gas leases sold at a sale held on June 7, 1949 by the School Land Board of the State of Texas, and issued by the Commissioner of the General Land Office under the seal of his office, covering areas within tidewater limits which were advertised and offered for lease on June 7, 1949 as the lease sale date, by advertisement for not less than thirty (30) days prior to June 7, 1949, and prior to June 6, 1949, the effective date of Chapter 321, page 603, Acts of the 51st Legislature, 1949,[1] are hereby ratified and title validated and confirmed in the lessees named in such leases, their heirs, successors or assigns, subject only to the terms and provisions of said leases and the laws applicable thereto; however, nothing herein shall validate, affect, or apply to any such oil and gas lease which is not otherwise valid and in force on the effective date of this Act. Acts 1953, 53rd Leg., p. 440, ch. 128, § 1.

1 Article 5382b.

Emergency. Effective May 14, 1953.

Title of Act:

An Act validating oil and gas leases sold by the School Land Board and issued by the Commissioner of the General Land Office, under the seal of his office, covering areas within tidewater limits which were advertised and offered for lease on June 7, 1949, after advertisement for not less than thirty (30) days prior to June 6, 1949, in accordance with the law in effect; providing that the Act shall not apply to or affect any oil and gas leases sold and issued pursuant to said advertisement and lease sale date which are not otherwise valid and in force on the effective date of this Act; and declaring an emergency. Acts 1953, 53rd Leg., p. 440, ch. 128.

Art. 5382e. Continuation or extension of leases after expiration of primary term

Section 1. Each valid and subsisting mineral lease of oil and gas heretofore issued by the Commissioner of the General Land Office of Texas covering rivers, channels, unsold school lands, both surveyed and unsurveyed, or any area within tidewater limits, including islands, lakes, salt water lakes, bays, inlets, marshes, the bed of the sea, and that portion of the Gulf of Mexico now or hereafter within the jurisdiction of the State of Texas, shall be amended by the Commissioner of the General Land Office by instrument in writing, upon application of lessee, to provide, and each such lease issued hereafter shall provide:

(a) That in the event production of oil or gas on the leased premises after once obtained shall cease from any cause at the expiration of the primary term thereof or at any time or times thereafter, such lease shall not terminate if the lessee commences additional drilling or reworking operations within sixty (60) days thereafter, and such lease shall remain in full force and effect so long as such operations continue in good faith and in workmanlike manner, without interruptions, totaling more than sixty (60) days during any one such operation; and if such drilling or reworking operations result in the production of oil or gas, such lease shall remain in full force and effect so long as oil or gas is produced therefrom in paying quantities or payment of shut-in gas well royalties or compensatory royalties is made as hereafter provided in this Act or as provided elsewhere in the statutes of the State of Texas;

(b) That if at the expiration of the primary term or at any time thereafter there is located on the leased premises a well or wells capable of producing gas in paying quantities and such gas is not produced for lack of a suitable market and such lease is not being otherwise maintained in force and effect, the lessee may pay as royalty a sum of money equal to double the annual rental provided for in such lease, but in no event to be less than Twelve Hundred ($1200.00) Dollars per annum for each well capable of producing gas in paying quantities, such payment to be made prior to the expiration of the primary term of the lease, or, if the primary term has expired, within sixty (60) days after the lessee ceases to produce gas from such well; and if such payment is made, the lease shall be considered to be a producing lease and such shut-in gas well royalty payment shall extend the term of the lease for a period of one (1) year from the end of the primary term or from the first day of the month next succeeding the month in which production ceased; and thereafter if no suitable market for such gas exists, the lessee may extend the lease for four (4) additional and successive periods of one (1) year each by the payment of a like sum of money each year on or before the expiration of the extended term. Provided, however, that if, while such lease is being maintained in force and effect by payment of such shut-in gas well royalty, gas should be sold and delivered in paying quantities from a well situated within one thousand (1,000) feet of the leased premises and completed in the same producing reservoir or in any case where drainage is occurring, the right to further extend the lease by such shut-in gas well royalty payments shall cease but such lease shall remain in force and effect for the remainder of the current one (1) year period for which the shut-in gas well royalty has been paid, and for an additional period not to exceed five (5) years from the expiration of the primary term by payment by the lessee of compensatory royalty, at the royalty rate provided for in such lease, of the value at the well of production from the well completed in the same producing reservoir from which gas is being sold and delivered and which is situated within one thousand (1,000) feet of, or draining, the leased premises on which such shut-in gas well is situated, such compensatory royalty to be paid monthly to the Commissioner of the General Land Office beginning on or before the 20th day of the month next succeeding the month in which such gas is sold and delivered from the well situated within one thousand (1,000) feet of, or draining, the leased premises and completed in the same producing reservoir; provided further, that in the event such compensatory royalties paid in any twelve (12) month period are in a sum less than the annual shut-in gas well royalties provided for in this section, lessee shall pay a sum of money equal to the difference within thirty (30) days from the end of such twelve (12) month period; provided fur-

ther, that nothing herein shall relieve the lessee of the obligation of reasonable development, nor of the obligation to drill offset wells as required by Article 5359, Revised Civil Statutes of 1925.

Sec. 2. If, at the expiration of the primary term of any oil or gas lease hereafter issued by the Commissioner of the General Land Office covering areas described in Section 1 hereof, production of oil or gas has not been obtained on the leased premises but drilling operations are being conducted thereon in good faith and in good and workmanlike manner, the lessee may, on or before the expiration of the primary term, file in the General Land Office written application to the Commissioner of the General Land Office for a thirty (30) day extension of such lease, accompanied by payment of Three Thousand ($3,000.00) Dollars for six hundred forty (640) acres or less, and Six Thousand ($6,000.00) Dollars for more than six hundred forty (640) acres, and the Commissioner shall, in writing, extend such lease for a thirty (30) day period from and after the expiration of the primary term and so long thereafter as oil or gas is produced in paying quantities; provided further, that lessee may, so long as such drilling operations are being conducted, make like application and payment during any thirty (30) day extended period for an additional extension of thirty (30) days and, upon receipt of such application and payment, the Commissioner shall, in writing, again extend the lease so that same shall remain in force for such additional thirty (30) day period and so long thereafter as oil or gas is produced in paying quantities; provided, however, that no lease shall be extended under the provisions of this section for more than a total of one hundred eighty (180) days from and after the expiration of the primary term unless production in paying quantities has been obtained.

Sec. 3. 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 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. Acts 1953, 53rd Leg., p. 672, ch. 255.

Effective 90 days after May 27, 1953, date of adjournment.

Section 4 of the Act of 1953 repealed conflicting laws or parts of laws.

CHAPTER FIVE—MINERALS

Arts. 5399a–5399f. Repealed. Acts 1953, 53rd Leg., p. 22, ch. 13, § 1. Eff. 90 days after May 27, 1953, date of adjournment

CHAPTER SEVEN—GENERAL PROVISIONS

Art.
5421n. Leases by cities, towns and political subdivisions; pooling provisions and unit operation [New].

Art. 5421b. Withdrawal from market of lands adjacent to Caddo Lake

Special Act of 1931 withdrawing Caddo Lake Bed and school lands from sale, see Sp.Acts 1931, p. 242, ch. 127.

Art. 5421c. Regulating sale and lease of school lands, public lands and river bed; Board of Mineral Development created

Lands subject to lease; laws applicable; royalties

Sec. 8. All islands, salt water lakes, bays, inlets, marshes and reefs, owned by the State within tidewater limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas, and all unsold public free school land, both surveyed and unsurveyed, and all rivers and channels belonging to the State, shall be subject to lease by the Commissioner of the General Land Office to any person, firm or corporation, for the production of minerals except sand, shell, gravel, gold, silver, platinum, cinnabar and other metals that may be therein or thereunder, in accordance with the provisions of all existing laws pertaining to the leasing of such areas for oil and gas, and in accordance with the provisions of all existing laws pertaining to the leasing of such areas for oil, gas, and all other minerals except sand, shell, gravel, gold, silver, platinum, cinnabar and other metals; provided that the leasing of minerals other than oil and gas shall not be subject to the provisions of Article 5359, Revised Civil Statutes, 1925, and subsection 5, Section 8–A of Section 1, Chapter 40, Acts of the Second Called Session, Forty-second Legislature, 1931;[1] provided further that all leases for each respective mineral other than oil and gas shall be granted on a separate lease and for a separate consideration, and shall provide for a royalty of not less than one-eighth (1/8) of the gross production or value of sulphur and one-sixteenth (1/16) of the gross production or value of other minerals, except oil and gas. As amended Acts 1953, 53rd Leg., p. 77, ch. 57, § 1.

1 Article 5421c, § 8—A.

Emergency. Effective April 7, 1953.

Art. 5421m. Veterans' Land Board

Veteran defined

Sec. 14. The term "veteran" as used in this Act, and the phrase "Texas veterans of the present war or wars, commonly known as World War II," and the phrase "Texas veterans of service in the armed forces of the United States of America subsequent to 1945," as used in Section 49–b of Article III of the Constitution, or as same may be amended, 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, Air Force, Coast Guard or Marine Corps of the United States between September 16, 1940 and March 31, 1955, and who upon the date of filing his or her application has not been 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. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 5; Acts 1953, 53rd Leg., p. 484, ch. 170, § 1.

Emergency. Effective May 19, 1953.

Art. 5421n. Leases by cities, towns and political subdivisions; pooling provisions and unit operation

Leases by cities and towns

Section 1. Cities and towns chartered or organized under the General Laws of Texas, or by special act or charter, are hereby authorized to insert in any oil and gas lease or in any oil, gas and mineral lease executed by them in accordance with existing law, a provision which authorizes the lessee to pool the lease, the lands or minerals included in it, or any part thereof, with any other lands, leases, mineral estates, or parts thereof, to form a drilling or spacing unit or units for the exploration, development, and production of oil or gas; and which authorizes the lessee to form such units and accomplish such pooling by written designations filed in the county in which the land is situated. With respect to any lands owned by any such city or town, the drilling or spacing units shall not exceed the minimum number of acres upon which an oil or gas well must be located in order to comply with the rules, regulations, or orders of the Railroad Commission of Texas or any other regulatory body, State or Federal, having authority to control or regulate the spacing of such oil or gas wells. Any such lease may further provide in substance: (1) that the entire acreage so pooled into a unit shall be treated for all purposes except the payment of royalties as if it were included in the lease, and drilling or re-working operations and production of oil or gas on any part of such unit shall be considered for all purposes except the payment of royalties as if the operations were on and production were from the land included in the lease whether or not the well or wells are located on the premises included in the lease; and (2) that in lieu of the royalties provided for in the lease, the lessor shall receive on production from a pooled unit only such proportion of the royalty provided for in the lease as the amount of lessor's acreage placed in the unit or its royalty interest therein on an acreage basis bears to the total acreage contained in the unit.

Leases by political subdivisions

Sec. 2. Political subdivisions which are bodies corporate with recognized and defined areas are hereby authorized to insert in any oil and gas lease or in any oil, gas and mineral lease executed by them in accordance with existing law a provision which authorizes the lessee to pool the lease, the lands or minerals included in it, or any part thereof, with any other lands, leases, mineral estates, or parts thereof, to form a drilling or spacing unit or units for the exploration, development, and production of oil or gas; and which authorizes the lessee to form such units and accomplish such pooling by written designations filed in the county in which the land is situated. With respect to school lands owned by a county, which are governed by Article 7, Section 6, of the Constitution of Texas, the leases may authorize the formation of drilling or spacing units upon such terms and provisions as the Commissioners Court of the county may deem best. With respect to any other lands owned by any such political subdivision, the drilling or spacing units shall not exceed the minimum number of acres upon which an oil or gas well must be located in order to comply with the rules, regulations, or orders of the Railroad Commission of Texas or any other regulatory body, State or Federal, having authority to control or regulate the spacing of such oil or gas wells. Any such lease may further provide in substance: (1) that the entire acreage so pooled into a unit shall be treated for all purposes except the payment of royalties as if it were

included in the lease, and drilling or re-working operations and production of oil or gas on any part of such unit shall be considered for all purposes except the payment of royalties as if the operations were on and production were from the land included in the lease whether or not the well or wells are located on the premises included in the lease; and (2) that in lieu of the royalties provided for in the lease, the lessor shall receive on production from a pooled unit only such proportion of the royalty provided for in the lease as the amount of lessor's acreage placed in the unit or its royalty interest therein on an acreage basis bears to the total acreage contained in the unit.

Amendment of existing leases

Sec. 3. Upon application of the lessee, or present owner of any oil and gas lease or oil, gas and mineral lease heretofore validly executed by any city, town or political subdivision referred to in this Act, such lease may, in the discretion of the governing body of such city, town or political subdivision, without notice, be amended so as to include a pooling provision containing the terms set out above.

Agreements for unit operation

Sec. 4. Cities and towns chartered or organized under the General Laws of Texas, or by any special act or charter referred to in Section 1 above, and political subdivisions which are bodies corporate with recognized and defined areas, referred to in Section 2 above, are hereby authorized to commit, without notice, any royalty interest owned by them in oil or gas to agreements that provide for the operation of areas as a unit for the exploration, development, and production of oil or gas. Such agreements may contain such terms and provisions as such city, town or political subdivision may deem best, and may provide in substance: (a) that operations incident to the drilling of a well upon any portion of a unit shall be deemed for all purposes to be the conduct of such operations upon each separately-owned tract in the unit by the several owners thereof; (b) that the production allocated to each tract included in a unit shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon; (c) that any lease covering any part of the area committed to the agreement shall continue in force as long as oil or gas is produced in paying quantities from any part of the unit area; and (d) that royalties reserved to such city, town or political subdivision from any tract or portion thereof included within the unit shall be paid only on that portion of the production allocated to the tract, or on the value of such production so allocated, in accordance with the agreement. No agreement shall be entered into by any city, town or political subdivision that shall in any manner commit such city, town or political subdivision to the payment of any part of the cost or expense of operating any unit area or any well located thereon.

Partial invalidity

Sec. 5. If any section, subdivision, paragraph, sentence, or clause of this Act be held to be unconstitutional, the remaining portions of this Act shall nevertheless be held valid and binding. Acts 1953, 53rd Leg., p. 686, ch. 262.

Emergency. Effective June 4, 1953.

TITLE 87—LEGISLATURE

Art. 5429e. Membership on board or interim committee; termination

That the membership of any duly appointed Senator or Representative on the Legislative Budget Board or on the Legislative Council, or on any other interim Committee, shall, on the following contingencies, terminate, and the vacancy created thereby shall be immediately filled by appointment for the unexpired term in the same manner as other appointments to the Legislative Budget Board and the Legislative Council are made:

(a) Resignation of such membership;

(b) Cessation of membership in the Legislature for death or any reason;

(c) Failure of such member to secure nomination or election to membership in the Legislature for the next succeeding term. Acts 1953, 53rd Leg., p. 915, ch. 377, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Title of Act:

An Act relating to the terms and appointment of Members of the Senate and the House of Representatives on the Legislative Budget Board and the Legislative Council, or on any other interim Committee; and declaring an emergency. Acts 1953, 53rd Leg., p. 915, ch. 377.

TITLE 88—LIBEL

Art. 5433a. Radio or television broadcasting station or network; limitation of liability

The owners, licensees or operators of a radio or television broadcasting station or network of stations, and the agents or employees of any such owner, licensee or operator shall not be liable for any damages for any defamatory statement published or uttered in or as a part of a radio or television broadcast, by one other than such owner, licensee or operator, or agent or employee thereof, unless it shall be alleged and proved by the complaining party, that such owner, licensee, operator or such agent or employee has failed to exercise due care to prevent the publication or utterance of such statement in such broadcast. Acts 1953, 53rd Leg., p. 506, ch. 184, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the Act of 1953 repealed conflicting laws or parts of laws.

Title of Act:

An Act providing for the exemption of the owners, licensees and operators of radio or television broadcasting stations and their agents and employees from damages for defamatory statements made over such stations by one other than such owner, licensee or operator, or agent or employee unless such owner, licensee, operator or agent or employee failed to use due care to prevent such broadcast; repealing all laws and parts of laws in conflict; and declaring an emergency. Acts 1953, 53rd Leg., p. 506, ch. 184.

TITLE 89—LIBRARY AND HISTORICAL COMMISSION

Article 5434. 5600–5601 Organization

The Governor shall, by and with the advice and consent of the Senate, appoint six (6) persons who shall constitute the Texas Library and Historical Commission. Appointments shall be made for a term of six (6) years.

Members of the Commission holding office at the time of passage of this Act shall continue in office until the expiration of their present terms.

Upon the expiration of the terms of office of the two (2) members which expire in 1953, the Governor shall, by, and with the advice of the Senate, appoint three (3) persons as members of the Commission. The Governor shall designate one (1) of the appointees to serve a term of two (2) years, to expire concurrent with the term of the present member of the Commission whose term of office expires in 1955.

The other two (2) appointees shall serve for six (6) years.

Thereafter all appointments shall be for a six (6) year term, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

The Commission shall be assigned suitable offices at the Capitol where they shall hold at least one regular meeting annually, and as many special meetings as may be necessary. Each such member while in attendance at said meetings shall receive Five Dollars ($5) per day and the actual expenses incurred in attending the meetings. As amended Acts 1953, 53rd Leg., p. 726, ch. 283, § 1.

Emergency. Effective June 4, 1953.

The Act of 1953 was preceded by the following preamble:

"Whereas, Article 5434, created the Texas Library and Historical Commission, composed of five (5) members serving six (6) year terms; and

"Whereas, Article 16, Section 30a of the Constitution provides that:

'The Legislature may provide by law that the members of the Board of Regents of the State University and the boards of trustees or managers of the educational, eleemosynary, and penal institutions of the State, and such boards as have been, or may hereafter be established by law, may hold their respective offices for the term of six (6) years, one-third of the members of such boards to be elected or appointed every two (2) years * * *'; and

"Whereas, It is an impossibility for the Library and Historical Commission to conform to the above-mentioned Constitutional mandate with a membership of five (5) members; and

"Whereas, Increasing the size of the Library and Historical Commission to six (6) members would enable the Commission to conform to the Constitutional mandate; now, therefore,"

TITLE 90—LIENS

CHAPTER THREE—OIL AND MINERAL PROPERTY

Art. 5476. Proceedings to fix lien

Notice of the liens herein created shall be given and such liens shall be enforced within the same time and in the same manner as provided in the preceding Chapter. Whenever any person shall remove any such property to a county other than the one in which the lien has been filed, the lien holder may within ninety (90) days thereafter file an itemized inventory of the property so removed showing the amount due and unpaid thereon, with the Clerk of the county to which it has been removed, which shall be recorded in the Materialman's Lien Records of such county, and such filing shall operate as notice of the existence of the lien and the lien shall attach and extend to the land or leasehold and other premises, properties and appurtenances to which said properties so removed shall attach, of the kind and character enumerated in Article 5473. As amended Acts 1953, 53rd Leg., p. 363, ch. 89, § 1.

Emergency. Effective May 1, 1953.

Art. 5476a. Securing lien; contents of affidavit

Every original contractor, within six (6) months, and every journeyman, day laborer, or other person, within three (3) months after the indebtedness accrues, shall file in the office of the County Clerk of the county where the property is situated, to be recorded in a book kept by the County Clerk for that purpose, a statement verified by affidavit setting forth the amount claimed and the items thereof, the dates of performance or furnishing, the name of the owner of the land, mine or quarry, gas, oil or mineral leasehold interest, gas pipeline or oil pipeline, or oil or gas pipeline right-of-way, if known, the name of the claimant and his mailing address, a description of the land, mine or quarry, gas, oil or mineral leasehold interest, gas pipeline or oil pipeline, or oil or gas pipeline right-of-way, and if the claimant be a claimant under Article 5474, the name of the person for whom the labor was performed or materials or service furnished together with a statement that the claimant has given to the owner, his agent or representative or receiver, notice in writing as required in the preceding Chapter. Added Acts 1953, 53rd Leg., p. 363, ch. 89, § 2.

Emergency. Effective May 1, 1953.

Art. 5476b. Furnishing under a single contract

When labor is performed by the day or week, then the indebtedness shall be deemed to have accrued at the end of each week during which labor is performed. When material or services are furnished, the indebtedness shall be deemed to have accrued at the date of the last delivery of such material or services; and all materials or services furnished by any person upon the same land, mine or quarry, gas, oil or mineral leasehold interest, gas pipeline or oil pipeline, or oil or gas pipeline right-of-way, shall for the purposes of this Act be considered as having been furnished under a single contract regardless of whether or not the same was

furnished at different times or on separate orders, provided that no more than six (6) months in the case of an original contractor and three (3) months in the case of any person other than an original contractor, shall have elapsed between the date of furnishing of such material and services and the date on which materials or services are next furnished. Added Acts 1953, 53rd Leg., p. 363, ch. 89, § 2.

Emergency. Effective May 1, 1953.

CHAPTER SIX—CHATTEL MORTGAGES

Art. 5499a. Destruction of chattel mortgages and records in counties of 600,000 population; presumption of payment

On or after January 1, 1954, in all counties in this State having a population of six hundred thousand (600,000), or more, according to the last preceding Federal Census, the county clerks are hereby authorized and directed to destroy all chattel mortgages and chattel mortgage records pertaining to such which have been on file for a period of ten (10) years or more, unless on or before the expiration of said ten (10) year period, the owner or holder of the debt and lien shall file with the county clerk an affidavit stating that the debt has not been paid, such affidavit to contain suitable reference to the original chattel mortgage with a description of the indebtedness and the property on which the lien is claimed. If such an affidavit is filed, the county clerk shall hold said chattel mortgage on file for an additional period of ten (10) years from and after the date of such filing unless a release thereof has been filed.

In all such counties, when a chattel mortgage has remained on file for a period of ten (10) years, such period dating from the date of filing of the chattel mortgage, it shall be presumed that the indebtedness secured by the lien set forth in said chattel mortgage has been fully paid and discharged. All chattel mortgages which are destroyed by a county clerk on or after the expiration of ten (10) years from the date of their filing shall be presumed to have been satisfied, unless an affidavit is filed as above provided. All chattel mortgage records covering the period of the chattel mortgages destroyed by this Act shall likewise be destroyed at the same time. No county clerk shall be liable to any person owning or holding said debt or lien or any portion thereof unless the affidavit above provided for has been filed before the expiration of the ten (10) year period. Acts 1953, 53rd Leg., p. 743, ch. 291, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Title of Act:

An Act authorizing and directing county clerks in counties of six hundred thousand (600,000) population, or more, according to the last preceding Federal Census, to destroy chattel mortgage and chattel mortgage records after the expiration of ten (10) years, unless an affidavit of unpaid indebtedness is filed; and declaring an emergency. Acts 1953, 53rd Leg., p. 743, ch. 291.

CHAPTER SEVEN—OTHER LIENS

Art. 5506a. Hospital or clinic's lien for services on cause of action of persons injured

Right to lien

Section 1. Every association, individual, corporation, or other institution maintaining a hospital or clinic rendering hospital services in the State of Texas shall be entitled to a lien upon any and all rights of action, suits, claims, counter claims, or demands of any persons admitted to any hospital and receiving treatment, care, and maintenance therein, on account of any personal injuries received in any accident as the result of the alleged negligence of any other person or firm or corporation or joint stock association, his, its, or their agent, servant or employee, which any such injured person may or shall have, assert, or maintain against any such other person or firm or corporation or joint stock association for damages on account of such injuries, for the amount of the charges of such hospital or clinic for such treatment, care and maintenance as may have been given to the injured persons. Provided the lien provided for herein shall not exist or attach unless the injured person is received in a hospital within seventy-two (72) hours after the happening of the accident causing the injury, in which case both the admitting hospital and any hospital to which such injured person may be transferred from the admitting hospital for subsequent treatments of the same injuries for which he was originally admitted shall be entitled to such lien.

Lien to attach to judgment or orders in actions or proceedings

Sec. 2. The lien of any such hospital shall also attach to any verdict, report, decision, decree, award, judgment, or final order made or rendered in any action or proceeding, in any court in Texas, or any public board or bureau in any suit, action or proceeding brought by such injured persons, by any person entitled thereto in case of death of such injured person against any other person or corporation or joint stock association for the recovery of damages or compensation on account of injuries received in any such accident, as well as the proceeds of any settlement thereof, or the settlement of any such claim or demand effected by any such injured person or other person entitled thereto with any other person or firm or corporation or joint stock association whose negligence is claimed or alleged to have been the cause of said accident.

Release ineffectual as against claims; exceptions as to liens

Sec. 3. No release of any claim or demand on account of any such injuries, or in respect of any such verdict, report, decision, decree, award, judgment, or final order, made and rendered, as hereinbefore mentioned, executed by any such injured person, or by any person entitled thereto, shall be valid or effectual between the parties thereto or otherwise, unless prior to the execution and delivery thereof, all such charges of any such hospital or institution or clinic, furnishing hospital services, which has filed its, his, or their lien as hereinafter provided, shall have been paid in full, or to the extent of a full and true consideration paid and given to the injured person by the other party or parties to such release named therein or paid and given by any other person or corporation in behalf of such other party or parties, or unless such release shall also have been executed by the person, corporation, association, or institution maintaining such hospital; and every such ver-

dict, report, decision, decree, award, judgment, or final order shall remain in force and effect until all such charges of any hospital or institution shall have been paid in full or to the extent of any such verdict, report, decision, decree, award, judgment or order; provided such hospital, institution, or clinic furnishing said services does not charge more than a reasonable and regular rate for such services, in no event to exceed Fifteen ($15.00) Dollars per day for room charge for not longer than one hundred (100) days; provided that a notice in writing containing the name and address of the injured person, the date of the accident, the name and location of the hospital or clinic rendering the service, and if known, the name of the person or persons, firm or firms, corporation or corporations, alleged to be liable to pay damages to such injured person for such injuries so received, shall be filed in the office of the County Clerk of the county in which such injury shall have occurred, prior to the payment of any moneys to such injured person or his legal representative or other person entitled thereto as damages for or on account of such injuries. Provided further that this lien shall not attach to any claim for amounts due the injured person under the Workmen's Compensation Act of the State of Texas,[1] or Federal Liability Act,[2] or Federal Longshoremen's or Harbor Workers' Act.[3] Provided further, that the lien provided for in this Act shall not attach to any claim for amounts due the injured person by any person, firm, association, corporation, or receiver, or receivers, or his, its, or their employees, owning and/or operating a railroad in this State, where such person, firm, association, corporation, or receivers, or receiver, or his, its, or their employees, maintain a hospital, furnishing hospitalization to injured persons, where the said injured person is actually receiving treatment, care and maintenance in the hospital so owned by such person, firm, association, corporation, receiver or receivers, or his, its, or their employees.

1 Article 8306 et seq.
2 45 U.S.C.A. §§ 51–59.
3 33 U.S.C.A. §§ 901–950.

County clerk to provide hospital lien docket

Sec. 4. Every County Clerk shall at the expense of the county, provide a suitable well-bound book, to be called the "Hospital Lien Docket," upon which, on the filing of lien claims under the provisions of this Act he shall enter the name of the injured person, the date of the accident, the name and address of the hospital or clinic or other institution making the claim, and the amount thereof.

And the said Clerk shall make a proper index of the same in the name of the injured person, and such Clerk shall be entitled to Fifty (50¢) Cents for filing each claim and such fee shall be accountable as fees of office.

The term "corporation" as used in this Article shall include all municipal corporations, as well as all private, public, and quasi-public corporations, except county and common and independent school districts.

Hospital records subject to inspection

Sec. 4a. Any person or persons, firm or firms, corporation or corporations legally liable, or against whom a claim shall be asserted for compensation for such injuries, shall be permitted to examine the records of any such association, corporation, or other institution or body maintaining such hospital in reference to such treatment, care and maintenance of such injured person, under such reasonable rules and regula-

tions as such hospital may require, and the hospital record with respect to the injured person or persons may be admitted in evidence in any proceeding with respect to the recovery of damages.

Discharge of lien entered on hospital lien docket

Sec. 4b. To discharge any notices filed under the provisions of this Act the hospital authorities or person in charge of the finances of said hospital to whom said lien has been duly paid shall execute a certificate to the effect that the claim filed by such hospital for treatment, care and maintenance therein has been duly paid or released and authorizing the Clerk of the county in whose office said notice of hospital lien has been filed, to discharge the same; and thereupon such Clerk shall enter upon the margin of the hospital lien docket in which the said hospital lien has been entered, a memorandum of such filing and the date when such certificate of payment or release was filed in his office, which certificate and entry shall constitute a discharge of lien, for which the Clerk shall receive the sum of Fifty (50¢) Cents and such fee shall be accountable as fees of office.

Insurance excepted from claim of lien

Sec. 4c. The provisions of this Act shall not give to any such hospital, or any person, firm or corporation claiming under it, any lien, claim, right, or demand upon the proceeds of any insurance policy in favor of the injured party, his beneficiaries, or legal representatives, and none of the provisions of this Act shall have application thereto. Provided, however, this section shall not include public liability insurance carried by the insured to protect him against loss or damage as a result of any accident or collision covered by said public liability insurance policy. As amended Acts 1953, 53rd Leg., p. 443, ch. 131, § 1.

Emergency. Effective May 14, 1953.

Sections 2 and 3 of the amendatory Act of 1953 read as follows:

"Sec. 2. If any part of this Act is declared by the courts to be unconstitutional, such decision shall not affect the validity of the remaining part of this Act, unless the part held unconstitutional is indispensable to the operation of the remaining part; and the Legislature hereby declares that it would have passed those parts of the Act which are valid and omitted any parts which may be unconstitutional, if it had been advised of such unconstitutionality at the time of the passage of this Act.

"Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed."

TITLE 91—LIMITATIONS

Art. 5517. 5683, 3351, 3200 Right of the state, counties, cities and school districts

The right of the State, all counties, incorporated cities and all school districts shall not be barred by any of the provisions of this Title, nor shall any person ever acquire, by occupancy or adverse possession, any right or title to any part or portion of any road, street, alley, sidewalk, or grounds which belong to any town, city, or county, or which have been donated or dedicated for public use to any such town, city, or county by the owner thereof, or which have been laid out or dedicated in any manner to public use in any town, city, or county in this State. As amended Acts 1953, 53rd Leg., p. 857, ch. 348, § 1.

Emergency. Effective June 8, 1953.

Art. 5541. 5707, 3372, 3221 Presumption of death

Any person absenting himself for seven (7) years successively shall be presumed to be dead, unless proof be made that he was alive within that time; but an estate recovered on such presumption, if in a subsequent action or suit the person presumed to be dead shall be proved to be living, shall be restored to him with the rents and profits of the estate with legal interest during such time as he shall be deprived thereof; provided, however, that no person delivering such estate, or any portion thereof, to another under proper order of a court of competent jurisdiction, shall be liable therefor; and provided further that such right of restoration to the person presumed dead shall not extend to any real property in the hands of a purchaser for value from the person recovering such estate on a presumption of death, and in such case the right of the person presumed dead shall be limited to and extend only to the recovery of the purchase money received from such a purchaser for value by the person recovering the estate upon a presumption of death. As amended Acts 1951, 52nd Leg., p. 315, ch. 192, § 1; Acts 1953, 53rd Leg., p. 41, ch. 33, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

TITLE 92—LUNACY—JUDICIAL PROCEEDINGS IN CASES OF

Art. 5561c. Alcoholism

Purpose

Section 1. The purpose of this Act is to prevent broken homes and the loss of lives by creating the Texas Commission on Alcoholism, which shall co-ordinate the efforts of all interested and affected State and local agencies; develop educational and preventive programs; and promote the establishment of constructive programs for treatment aimed at the reclamation, rehabilitation and successful re-establishment in society of alcoholics. Alcoholism is hereby recognized as an illness and a public health problem affecting the general welfare and the economy of the State. Alcoholism is further recognized as an illness subject to treatment and abatement and the sufferer of alcoholism is recognized as one worthy of treatment and rehabilitation. The need for proper and sufficient facilities, programs and procedures within the State for the control and treatment of alcoholism is hereby recognized. It is hereby declared that the procedure for commitment of alcoholics as hereinafter provided for is not punitive but is a committal for treatment of an illness affecting not only the individual involved but the public welfare as well.

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) "Commission" means the Texas Commission on Alcoholism.

(b) "Hospital Board" means the Board for Texas State Hospitals and Special Schools.

(c) An "alcoholic" means any person who chronically and habitually uses alcoholic beverages to the extent that he has lost the power of self control with respect to the use of such beverages, or while chronically and habitually under the influence of alcoholic beverages endangers public morals, health, safety or welfare.

(d) "Alcoholism," as used herein, has reference to any condition of abnormal behavior or illness leading directly or indirectly to the chronic and habitual use of alcoholic beverages.

Texas Commission on Alcoholism

Sec. 4. Commission established. (a). There is hereby created a Commission to be known as the Texas Commission on Alcoholism, hereinafter called the Commission. The Commission shall consist of six (6) members to be appointed by the Governor, with the advice and consent of the Senate, from citizens of the State who are known to have knowledge of and an interest in the subject of alcoholism, at least one of whom must be a physician and at least three of whom shall have had personal experience as excessive users of alcohol. For the initial appointments as above provided for, the Governor shall designate two appointed members for each of the terms of two, four and six years, respectively, from the effective date of this Act. Each two years thereafter, the Governor, with the advice and consent of the Senate, shall appoint two members of the Commission for a term of six (6) years to succeed the members whose terms then expire. Members shall serve until their successors have qualified. Any vacancy occurring in the membership of the Commission shall be filled by appointment of the Governor with the advice and consent of the Senate for the unexpired portion of the vacated term.

(b). Officers of the Commission. The Governor shall designate a chairman of the first Commission to serve one year. The members of the Commission shall thereafter annually elect from their number a chairman and a vice-chairman. The members of the Commission may elect one of their number as secretary, or they may designate the executive director, appointed as herein provided, as such secretary.

(c). Meeting of the Commission and Per Diem Pay. The Commission shall meet quarterly, at such other times as may be necessary, at the call of the chairman, or at the request of three members, for the performance of their duties, not to exceed twenty-four (24) days in all in any one year. The members shall receive Ten Dollars ($10) per diem plus their actual and necessary expenses in connection with their attendance at such meetings. Four members of the Commission shall constitute a quorum for the transaction of business. In addition to the meetings herein authorized, the Commission may authorize its members to visit places within the State or in other States and engage in travel for the purpose of carrying out their duties as provided in this Act. For such travel, the members of the Commission shall receive the same per diem and expenses as they receive for their attendance at meetings.

(d). Commission Employees. The Commission may employ an executive director at an annual salary of Seven Thousand Five Hundred Dollars ($7,500) and such other employees as it deems necessary to properly discharge its duties under this Act.

Duties and Functions of the Commission

Sec. 5. The Commission shall have only the following duties and functions:

(1) Carry on a continuing study of the problems of alcoholism in this State, and seek to focus public attention on such problems.

(2) Establish cooperative relationships with other State and local agencies, hospitals, clinics, public health, welfare, and law enforcement authorities, educational and medical agencies and organizations, and other related public and private groups.

(3) Promote or conduct educational programs on alcoholism; purchase and provide books, films, and other educational material; and furnish funds or grants to the Texas Education Agency, institutions of higher education, and medical schools for study, research, and modernized instruction regarding the problems of alcoholism.

(4) Provide for treatment and rehabilitation of alcoholics and allocate funds for:

(a) The establishment of local alcoholic clinics, with or without short-term hospitalization facilities, by providing funds for not to exceed seventy-five per cent (75%) of the total operating cost of such clinics operated by a city or a county.

(b) Providing treatment for those alcoholics needing from fifteen (15) to ninety (90) days hospitalization, whether voluntary patients, or admitted on court order, by furnishing the Hospital Board all of the funds needed for the proper operation of segregated wards for treatment of such patients; such funds and necessary personnel to be in addition to all funds and personnel provided the Hospital Board in the regular Departmental Appropriation Bill.

(c) Contracting with hospitals or institutions not under its control for the care, custody and treatment of alcoholics.

(d) Providing for the detention, care, and treatment of recalcitrants and alcoholics with long police court records, by furnishing funds for the operation of farm or colony type facilities under the provisions of 4(a) or of 4(b).

Cooperation by Other Departments

Sec. 6. 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 Commission, to co-operate with it in all activities consistent with their proper function. Nothing herein shall be construed as giving the Commission control over existing facilities, institutions or agencies, or as requiring such facilities, institutions or agencies to serve the Commission inconsistently with their functions, or with the authority of their offices, or with the laws and regulations governing their activities; or as giving the Commission 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 adequately perform.

Power to Accept Gifts

Sec. 7. The Commission may accept gifts, grants, or donations of money or of property from private or public 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 Texas Commission on Alcoholism Fund and expended in the same manner as other State moneys are expended, upon warrants drawn by the Comptroller upon the order of the Commission. Any and all of said moneys are hereby appropriated for the purpose of carrying out this Act.

Rules and Regulations

Sec. 8. The Commission shall be responsible for the adoption of all policies and shall make all rules and regulations appropriate to the proper accomplishment of its functions under this Act and to the allocation of its funds.

Admission and Certification of Alcoholics

Sec. 9. (a) The county judge of the county where an alleged alcoholic resides may certify or remand him or her to the custody of the Commission or its authorized representative for the treatment and rehabilitation of such alcoholic, upon proper proof as hereinafter provided, and with the consent in writing of the Commission or its authorized representative.

(b) The Court may remand an alcoholic to the Commission or its authorized representative for treatment when it is properly shown to the court upon petition or application filed by the alleged alcoholic's husband, wife, child, mother, father, next of kin, next friend, or the county health officer, that such a person is an alcoholic, is a resident of the county, is over eighteen years of age, and is not capable of, or is unfit properly to conduct himself or herself, or to conduct and look after his or her affairs or is dangerous to himself, or others, or has lost the power of self-control because of use of alcohol. Such a petition or application must show that the alleged alcoholic is in actual need of care and treatment and that his or her detention, care and treatment would improve his health.

(c) Upon filing of a petition or application, the court shall set a day for the hearing, which hearing must be held not less than five (5) days and no more than twenty (20) days from the filing of the petition. The alleged alcoholic shall be personally served with a copy of the petition or application and the order fixing the time of hearing of the same by the sheriff of the county in which he is found and the court may proceed to hear the cause at the stated time, with or without the presence of the alleged alcoholic and with or without an answer by him, provided such service is perfected at least three (3) days prior to the hearing. The court shall inform relatives of the alleged alcoholic and other persons to appear at the hearing to give evidence in the cause. The Judge may, in his discretion or upon request, require an alleged alcoholic to be examined by the county health officer, or by other physicians, as the court may direct, the results of which examination to be considered by the court at the hearing of the application for commitment.

(d) If the alleged alcoholic admits the allegations of the application, or if the court finds that the material allegations of the application have been proven, it shall issue the proper certificate for his or her commitment or remand to the Commission or its authorized representative for such confinement and treatment as the Commission shall direct. Upon such a finding, the court shall order that he or she be remanded to the Commission or its authorized representative for a period of not less than fifteen (15) days nor more than three (3) months as the necessity of the case may require, subject, however, to earlier discharge at the discretion of the Commission.

(e) The Commission shall by rule provide a method of notification by the county court or the clerk thereof to the Commission of initiation of proceedings under this Section and the order of the court therein, and shall provide for notification of the court before the date set for the hearing of a petition or application for certification whether it will accept custody of such person should the court so order.

Appeals from Decisions Committing Persons to the Commission

Sec. 10. (a) Any person brought before any court on petition for commitment as hereinafter provided, may, within five (5) days, appeal from a decision of the county court committing him or her, to the district court upon his or her giving bond with sufficient sureties to be approved by the committing judge in such form as may be fixed by said judge, the bond being conditioned upon his or her appearance to abide the results of the appeal.

(b) On appeal, trial shall be de novo and the appellant shall be entitled to trial by jury.

Habeas Corpus by Persons Committed to the Commission

Sec. 11. If a writ of habeas corpus to be obtained in behalf of a person committed to and confined by an order of a court and it appears at the hearing on the return of such writ that such person may properly be discharged, or if the person's condition is such that it will be safe for him or her or others for him or her to be released, the judge before whom the hearing is held shall so direct; but if it appears from the condition of such person that he or she requires treatment, he or she shall be remanded to the care and custody of the Commission or its authorized representative for such treatment.

Commitment by Courts

Sec. 12. The judge of any court of this State having jurisdiction of misdemeanor cases may, upon finding a person guilty of any violation of the law, which violation is a misdemeanor resulting from such person's chronic and habitual use of alcohol, remand such person over eighteen (18) years of age to the Commission or its authorized representative for care and treatment for a period not to exceed ninety (90) days, in lieu of the imposition of a sentence, if and when special facilities are available for treatment of such cases, and with notice from the Commission that such facility will receive such person as a patient. No person may be so committed who in the opinion of the judge has exhibited definite criminal tendencies, or is feeble-minded or psychotic. Appeals from such orders of the court may be taken in the same manner as provided for appeals from any other judgment of such court.

Voluntary Patients

Sec. 13. Under such rules as it may prescribe the Commission or its authorized representative may receive as a patient for treatment, any alcoholic resident of this State against whom no criminal charges are pending, and who shall voluntarily apply for treatment, and may retain for not more than ninety (90) days and treat and restrain such person in the same manner as if committed by order of court, provided, however, that such person must be released within ten (10) days after receipt in writing of notice from such person of his or her intention or desire to leave. The Commission or its authorized representative may refuse admittance to any applicant who has been a patient receiving treatment solely for alcoholism in any Texas State Hospital and who has been released therefrom within

twelve (12) months immediately preceding his application for admittance, if, in the opinion of the Commission, no useful purpose would be served by the admission of such applicant.

Probation and Discharge

Sec. 14. (a) Any person committed to the custody of the Commission or its authorized representative may, notwithstanding the terms of any order of commitment, be permitted by the Commission or its authorized representative to go at large on probation and without restraint for such time and under such condition as the Commission shall judge best.

(b) Any person, whether a voluntary patient or committed by a court, whose actions, attitude and behavior cause the Commission or its authorized representative to believe that such a person is not benefiting by care and treatment, may be discharged at any time at the discretion of said Commission or representative, notwithstanding the terms of any order of commitment.

Costs of Commitment and Support

Sec. 15. The provisions of law with respect to the costs of commitment and the cost of support, including methods of determination of the persons liable therefor, and methods of determination of financial ability, and all provisions of law enabling the State to secure reimbursement of actual cost, applicable to the commitment to and support of mentally ill persons in State Hospitals, shall apply with equal force in respect to each item of expense incurred by the State in connection with the commitment, care, custody, treatment and rehabilitation of any person securing care and treatment under this Act. All funds so collected are hereby appropriated to the Commission for the purpose of this Act.

Rights as Citizens

Sec. 16. No person who is committed for treatment under the provisions of this Act, either through voluntary application or involuntary procedure, shall forfeit or be abridged thereby of any of his or her rights as a citizen of the United States or of the State of Texas. The record of any individual committed for treatment, guidance and rehabilitation shall be confidential and the contents thereof shall not be divulged except on order of a court of competent jurisdiction.

Commitment Proceedings for Mentally Ill Persons

Sec. 17. The Commission or its representative shall bring commitment proceedings, in the court in the county wherein the person involved is restrained, for commitment to such institutions as such court may direct, of any person who has been committed to the custody and control of the Commission and who is found to be mentally ill.

Revenue

Sec. 18. (a) The cost of financing the operations of the Texas Commission on Alcoholism shall be borne with funds as provided by Section 7 of this Act.

Appropriation

Sec. 19. All funds received and deposited in the State Treasury under the provisions of this Act to the Texas Commission on Alcoholism Fund are hereby appropriated for the biennium ending August 31, 1955, to the Commission for the purposes set out in this Act, including salaries and all other operating and contingent expenses, provided that no funds may be

spent without the prior approval of budgets of the Commission by the Governor with the advice of the Legislative Budget Board; provided, however, that salaries shall not exceed those for comparable positions in other State Departments.

Constitutionality

Sec. 20. 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 1953, 53rd Leg., p. 983, ch. 411.

Emergency. Effective June 9, 1953.

Title of Act:

An Act creating a Commission to provide for education and study relating to problems of alcoholism; and providing for commitment and treatment of alcoholics; providing a saving clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 983, ch. 411.

TITLE 93—MARKETS AND WAREHOUSES

CHAPTER TWO—WAREHOUSES AND WAREHOUSEMEN

Art. 5577a. Public grain warehouses

Definitions

Section 1. (a) The term "person," as used in this Act, shall be construed to mean any individual, corporation, partnership, firm, company or association.

(b) The term "public grain warehouse," as used in this Act, shall be construed to mean any place where non-perishable grains and/or field seeds are received for storage for others in bulk and/or for handling for re-storage.

(c) The term "warehouseman," as used in this Act, shall be construed to mean any person operating a public grain warehouse as herein defined.

(d) The term "Commissioner," when used in this Act, shall mean the Commissioner of Agriculture of the State of Texas.

Enforcement; personnel and equipment

Sec. 2. The Commissioner shall carry out and enforce the provisions of this Act and is hereby empowered to appoint and fix the duties and compensation of inspectors and such other personnel and provide such equipment as may be necessary to assist him in enforcing the provisions hereof.

Licenses and bonds

Sec. 3. It shall be unlawful for any person to operate a public grain warehouse unless he shall have obtained and holds a license therefor issued by the Commissioner. Each application for such license shall be on a form prescribed by the Commissioner of Agriculture, which shall charge and collect a fee of Ten ($10.00) Dollars for each such license and deposit the same in the State Department of Agriculture Grain and Field Seed Warehouse Inspection Fund. No such license shall be issued until the applicant therefor has filed with the Commissioner a corporate

surety bond, in an amount not less than Five Thousand ($5,000.00) Dollars, and not more than Fifty Thousand ($50,000.00) Dollars on a form prescribed by the Commissioner, conditioned that the applicant will fulfill all of his obligations as a warehouseman. Subject to the limitations herein provided, such bond shall be payable to the State of Texas and shall be in such amount as the Commissioner determines will be sufficient to afford adequate protection to the public, and the amount thereof shall be changed from time to time, whenever the State Commissioner finds that the interests of the public require the same. Anyone injured by the violation of the terms of the bond may recover damages to the amount of the bond and suit therefor may be instituted by such injured person; provided, however, that the aggregate liability of the surety to all such injured persons for all such damages shall, in no event, exceed the amount of such bond. Each license issued under the provisions of this section shall expire one (1) year after its issuance, but may be suspended or revoked sooner by the Commissioner, after notice by registered mail and an opportunity to be heard has been given, for a failure to maintain the bond required herein or adequate insurance on all grains and field seeds received in store, or for a violation of any of the provisions of this Act or any rule or regulation of the Commissioner adopted pursuant to this Act. Provided, that upon evidence of just and good cause such license may be temporarily suspended without a hearing, for a period not to exceed thirty (30) days.

Where a warehouseman operates more than one (1) warehouse unit located in close proximity, and on the same general site as the one (1) unit for which he has been licensed, he shall be entitled to a permit or permits for the operation of such additional units, upon application for such permits made to the Commissioner on forms to be prescribed by him, and the payment of an annual permit fee in the amount of Ten ($10.00) Dollars for each such permit, and such permit shall run concurrently with the license of this principal unit and one (1) bond shall cover all the units as a whole.

Bond after termination of license

Sec. 4. The Commissioner may require a bond from any warehouse man upon suspension, revocation or expiration of his license, for an amount to be fixed by the Commissioner, to afford adequate protection to the holders of warehouse receipts issued by such warehouseman so long as any receipts remain outstanding or uncancelled.

Reports; inspections; fees

Sec. 5. Each warehouseman shall, when requested by the Commissioner of Agriculture, make a report to the Commissioner concerning the condition, conduct, operation and business of each warehouse he operates and the grains and field seeds stored therein, and shall permit any representative or agent of the Commissioner to enter and inspect each such warehouse and its contents and the records thereof, and shall render any assistance necessary in checking any condition or books in connection therewith. The Commissioner shall charge and collect, for not to exceed one (1) annual examination and/or inspection of each warehouse unless an additional examination and/or inspection is made at the request of the warehouseman, an inspection fee at the rate of One ($1.00) Dollar for each ten thousand (10,000) bushels of the rated grain storage capacity or fraction thereof of the warehouse inspected, but in no case shall such inspection fee be less than Fifteen ($15.00) Dol-

lars. The Commissioner may make as many inspections as he deems necessary providing that no more than one (1) inspection fee per year is charged. All such fees collected shall be deposited in an account to be known as the State Department of Agriculture Grain and Field Seed Warehouse Inspection Fund.

Insurance of stored grains and seeds

Sec. 6. Every person licensed under the provisions of this Act shall insure, and shall at all times keep insured, in his own name, all of the grains and seeds in store for the full market value thereof, against loss or damage by fire, lightning, inherent explosion, windstorm, cyclone, or tornado, and, in the event of any other damage to such grains and field seeds, or to the warehouse or warehouses, whether or not such loss was insured against, he shall immediately notify the Commissioner and shall at his own expense promptly takes steps necessary to collect the moneys which may be due as indemnity for such loss or damage. For the purpose of this Section, "full market value" shall mean the value required by law to be used by underwriters in paying for losses of the grains and field seeds insured for their actual cash value. In the event the warehouseman insures against hazards not specified herein, such insurance shall inure to the benefit of the holders of the warehouse receipts.

Scale tickets

Sec. 7. Each warehouseman shall, upon weighing grains and field seeds, issue to the person from whom the same are received a scale ticket in a form or forms approved by the Commissioner. Such scale ticket shall be non-negotiable, but may singly or with others be exchanged for a negotiable warehouse receipt.

Warehouse receipts; form

Sec. 8. Warehouse receipts shall be in a form prescribed and designed by the Commissioner, in conformity with the Texas Uniform Warehouse Receipt Act.[1]

[1] Article 5612 et seq.

Issuance of warehouse receipts; numbering

Sec. 9. Upon application of the owner or consignee of grains and field seeds stored in a public grain warehouse, the warehouseman shall issue to the person entitled thereto a warehouse receipt therefor. No two (2) warehouse receipts bearing the same number shall be issued for the same public grain warehouse during any one (1) calendar year, except in case of a lost or destroyed receipt, in which case the new receipt shall bear the same date and number as the original, and shall be plainly marked upon its face "Duplicate".

Issuance only on actual delivery; multiple receipts for same lot; division and consolidation

Sec. 10. No warehouse receipt shall be issued except upon actual delivery of grains and/or field seeds into store in the public grain warehouse from which it purports to be issued, and which are to be represented by the receipt; nor shall any receipt be issued for a greater quantity of grains or field seeds than is contained in the lot stated to have been received, nor shall more than one (1) receipt be issued for the same lot of grains or field seeds except in cases where receipts for a part of a lot are desired, and then the aggregate receipts for a particular lot shall

cover that lot and no more. In cases where a part of the grains or field seeds represented by the receipt is delivered out of store and the remainder is left, new receipt may be issued for the remainder; but such new receipt shall bear the same date as the original, and shall state on its face that it is the balance of the receipt of the original number, and the receipt upon which a part has been delivered shall be cancelled in the same manner as if the grains or field seeds it calls for had all been delivered. In case it be desirable to divide one (1) receipt into two (2) or more, or in case it be desirable to consolidate two (2) or more receipts into one (1), and the warehouseman consents thereto, the original receipt shall be cancelled the same as if the grains or field seeds had been delivered from store, and the new receipts shall state on their face that they are parts of other receipts, or a consolidation of other receipts, as the case may be; and the numbers of the original receipts shall also appear upon the new receipts issued explaining the change; but no consolidation of receipts of dates differing more than ten (10) days shall be permitted, and all new receipts issued for old ones cancelled as herein provided shall bear the same dates as those originally issued as near as may be.

Lost or destroyed receipts

Sec. 11. In case a warehouse receipt is lost or destroyed, a duplicate so marked shall be issued therefor in the same manner as the original receipt upon affidavit of the owner of the original receipt that such receipt has been lost or destroyed, and the giving to the warehouseman of an acceptable bond with approved security in an amount equal to double the value, at the time the bond is given, of the grains or field seeds represented by said lost or destroyed receipt, which bond shall indemnify against loss or damage sustained by reason of the issuance of such duplicate receipt, and any cost of litigation incident thereto.

Equipment and records

Sec. 12. Each warehouseman shall provide sufficient equipment for weighing and maintaining quality and keeping records of all grains and field seeds stored.

Liability for loss or injury

Sec. 13. A warehouseman shall be liable for any loss or injury to the goods caused by his failure to exercise such care in regard to them as a reasonably careful owner of similar goods would exercise, but he shall not be liable, in the absence of an agreement to the contrary, for any loss or injury to the goods which could not have been avoided by the exercise of such care.

Issuance of false or fraudulent receipts; removal of grain or seed without return of receipt

Sec. 14. Any warehouseman, or employee or manager of a public grain warehouse, who shall be guilty of issuing any warehouse receipt for any grains or field seeds that are not actually in store at the time of issuing such receipt, or who shall be guilty of issuing any warehouse receipt that is in any respect fraudulent in its character, either as to its date or as to the quantity, quality or inspected grade of such grains or field seeds or who shall remove any grains or field seeds from store (except to preserve the same from fire or other damage) without the return and cancellation of any and all outstanding receipts that may have been issued to represent such grains or field seeds, shall, when

convicted thereof, be guilty of a felony, and shall be punished by a fine of not more than Five Thousand ($5,000) Dollars or imprisonment in the State penitentiary for not more than five (5) years, or by both such fine and imprisonment.

Issuance of receipt without knowledge; delivery of grain or seeds without surrender of receipt; failure to cancel receipt

Sec. 15. Any warehouseman, or the manager or other employee of a public grain warehouse, who fraudulently issues or aids in issuing a warehouse receipt for any grains or field seeds, without knowing that the same have actually been placed in a public grain warehouse, or who shall deliver any grains or field seeds from a public grain warehouse without the surrender and cancellation of the receipt therefor, or who fails to mark his receipt "cancelled" on the delivery of such grains or field seeds, shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than Five Thousand ($5,000) Dollars or by imprisonment in the State penitentiary for a term of not more than five (5) years, or by both such fine and imprisonment.

Offenses respecting license; false or fraudulent receipts

Sec. 16. No public grain warehouse shall be designated as being licensed or operated under the provisions of this Act, and no name or description conveying the impression that it is so licensed or operated shall be used unless such public grain warehouse is so licensed and operated. Any person who shall so misrepresent, or who shall forge, alter, counterfeit, simulate, or falsely represent the license required by this Act, or who shall issue or utter, or aid or assist in uttering, issuing or uttering, or attempt to issue or utter, a false or fraudulent receipt for any grains or field seeds, shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine of not more than Five Thousand ($5,000.00) Dollars, or by imprisonment in the State penitentiary for a term of not more than five (5) years, or by both such fine and imprisonment.

False statements with intent to defraud; liability to lienholder or mortgagee

Sec. 17. Any person who shall, in order to sell to a public grain warehouseman any grains and/or field seeds upon which a lien or a mortgage exists, make any false statement of a material fact, with intent to defraud, and/or any person who shall in order to procure any negotiable warehouse receipt, make any false statement of a material fact, with intent to defraud, shall be guilty of a felony and shall be punished by a fine of not more than Five Thousand ($5,000.00) Dollars, or by imprisonment in the State penitentiary for a period of not more than two (2) years, or by both such fine and imprisonment. Provided, that no warehouseman shall be liable to any lienholder or mortgagee for any grains and/or field seeds or liens and/or incumbrances thereon unless at the time of sale the nature and amount of same is clearly set out in a written declaration signed by the person selling such grains and/or field seeds, and it is hereby made the duty of the warehouseman to secure such written declaration before final settlement is made.

Rules and regulations

Sec. 18. The State Commissioner of Agriculture shall make such rules and regulations as he deems necessary to carry out the provisions of this Act.

Application of act; exceptions

Sec. 19. The provisions of this Act shall not apply to persons operating public grain warehouses under the United States Warehouse Act, as amended, and operating in connection with the rules and regulations made in pursuance thereof or thereunder, and shall not apply to an individual producer-owner who does not receive from other producers grains and/or field seeds for storage and/or handling for re-storage.

Violations of act, rule or regulation

Sec. 20. Any person violating any of the provisions of this Act or any rule or regulation made hereunder, shall be guilty of a misdemeanor except where such violation is expressly made a felony.

Appropriations

Sec. 21. All money deposited under the State Department of Agriculture Grain and Field Seed Warehouse Inspection Fund is hereby appropriated to effectuate the provisions of this Act in addition to any other appropriations by House Bill No. 111, Acts 53rd Legislature, Regular Session, for the biennium ending August 31, 1955.[1] Thereafter the number of employees and the salaries and travel allowances of each shall be as fixed in the biennial appropriation bill.

1 Vernon's Texas Session Laws, c. 81, p. 127.

Partial invalidity

Sec. 22. If any of the provisions of this Act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity or constitutionality of any of the other provisions of this Act. Acts 1953, 53rd Leg., p. 385, ch. 106.

Emergency. Effective May 8, 1953.

Section 23 of the Act of 1953 repealed conflicting laws and parts of laws to the extent of the conflict.

CHAPTER SIX—PUBLIC WEIGHER

Art. 5692. Special weighers

In all counties of this State in which there are two or more cities, towns or shipping points that receive as much as fifty thousand bales of cotton, or twenty-five tons of cotton seed, or one hundred thousand bushels of grain, or two hundred thousand bushels of rice, or one hundred thousand pounds of wool, or five thousand barrels of sugar, or any other commodity in large quantities, it shall be lawful for the Governor to appoint a sufficient number of weighers for such county to carefully and accurately weigh all commodities tendered for the purpose of weighing for shipment, sale or purchase. This Article shall not apply to Galveston County. All such appointments shall be made by the Governor on the recommendation of the senator from whose senatorial district such appointment is made, together with a majority of the representatives in the Legislature from such senatorial district. No man shall be appointed unless he shall receive the endorsement of the senator and a majority of the representatives from such district. Every public weigher so appointed shall file a bond payable to the State of Texas, in the sum of Five Thousand

($5,000.00) Dollars, conditioned that he will accurately weigh, or measure, all commodities tendered to him in said county for weighing or measuring, and that all certificates of weight issued by him shall represent a true and accurate weight of such produce so weighed, and otherwise complying with the law governing the conditions of bonds required of public weighers. Such bond so given shall not be void upon first recovery but may be sued on successively by any and all persons who are injured by such public weigher. Such public weigher shall have the right to appoint a sufficient number of deputies to aid him in weighing or measuring any commodity that is tendered to him for weighing. All bonds given by such public weighers or their deputies shall be subject to the approval of the Commissioner of Agriculture, and all bonds and oaths of such public weighers or their deputies shall be filed with said Commissioner. As amended Acts 1953, 53rd Leg., p. 74, ch. 54, § 1.

Emergency. Effective April 6, 1953.

Section 2 of the amendatory Act of 1953 provided that partial invalidity should not affect other parts of the law.

TITLE 94—MILITIA—SOLDIERS, SAILORS AND MARINES

CHAPTER ONE—GENERAL PROVISIONS

Art. 5769b. Repealed. Acts 1953, 53rd Leg., p. 584, ch. 227, § 5. Eff. May 27, 1953

Leaves of absence to public officers and employees, members of National Guard, official militia or reserve components, see art. 5769b—1.

Art. 5769b—1. Leaves of absence to public officers and employees

Section 1. All officers and employees of the State of Texas and of any county or political subdivision thereof, including municipalities, who shall be members of the National Guard 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 or vacation time or salary on all days during which they shall be engaged in field or coast defense training and on all days of parade or encampment, ordered or authorized by proper authority.

Sec. 2. All officers and employees of the State of Texas and of any county or political subdivision thereof, including municipalities who shall be members of the National Guard 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 or vacation time or salary 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.

Sec. 3. 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. 4. 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. Acts 1953, 53rd Leg., p. 584, ch. 227.

Emergency. Effective May 27, 1953.

Section 5 of the Act of 1953 repealed arts. 5769b and 5890a.

Title of Act:

An Act providing for leaves of absence without loss of time or efficiency rating or vacation time or salary of all officers and employees of the State of Texas and of any county or political subdivision thereof, including municipalities, who are members of the National Guard or Official Militia of Texas or members of any of the Reserve Components of the Armed Forces; providing the above-named officers and employees shall be restored to former positions; providing that the limitation as to the number of days allowed shall not apply to Members of the Legislature; repealing Chapter 523, page 955, Acts of the Regular Session, Fifty-first Legislature, 1949, Chapter 87, page 108, Acts of the Regular Session, Forty-seventh Legislature, 1941, and Chapter 197, page 330, Acts of the Regular Session, Forty-second Legislature, 1931; repealing all laws in conflict; and declaring an emergency. Acts 1953, 53rd Leg., p. 584, ch. 227.

CHAPTER THREE—NATIONAL GUARD

Art. 5890a. Repealed. Acts 1953, 53rd Leg., p. 584, ch. 227, § 5. Eff. May 27, 1953.

Leaves of absence to public officers and employees, members of National Guard, official militia or reserve components, see art. 5769b—1.

CHAPTER FOUR—STATE NAVAL MILITIA

Art. 5891. Repealed. Acts 1953, 53rd Leg., p. 23, ch. 14, § 1. Eff. 90 days after May 27, 1953, date of adjournment

TITLE 95—MINES AND MINING

Art. 5892. Commissioner of Labor Statistics; rights and duties transferred to

The State Mining Board and the office of State Mining Inspector are abolished, and the rights and duties of the State Mining Board and the State Mining Inspector are transferred to the Commissioner of Labor Statistics. The Commissioner of Labor Statistics shall enforce the provisions of this title, and the terms "State Mining Inspector," "mine inspector," and "inspector" whenever used in this Title shall mean the Commissioner of Labor Statistics or his agent. As amended Acts 1953, 53rd Leg., p. 30, ch. 24, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the amendatory Act of 1953 repealed arts. 5893-5900 and art. 5916.

The amendatory Act of 1953 contained the following preamble:

"Whereas, Articles 5892 through and including Article 5900 and Article 5916 relate to the establishment of a State Mining Board to select a State Mining inspector

and to otherwise administer the laws concerning coal mining; and

"Whereas, Coal mining has been of little significance as an industry in Texas since the development of the petroleum industry, the Legislature has made no appropriation for many years for the support of these offices, but in 1931 and 1933 transferred the duties of the State Mining Board to the Bureau of Labor by appropriation rider, the legality of transferring the functions of this agency in this manner being somewhat questionable; and

"Whereas, There is no active agency to enforce these provisions should the need arise; and the State Mining Board and the office of State Mining Inspector, which have been inactive for many years, should be abolished and their duties transferred to the Commissioner of Labor Statistics; now therefore"

Arts. 5893–5900. Repealed. Acts 1953, 53rd Leg., p. 30, ch. 24, § 2. Eff. 90 days after May 27, 1953, date of adjournment

Offices of State Mining Board and Mine Inspector abolished and rights and duties transferred to Commissioner of Labor Statistics, see art. 5892.

Arts. 5906, 5907, 5912

Offices of State Mining Board and Mine Inspector abolished and rights and duties transferred to Commissioner of Labor Statistics, see art. 5892.

Art. 5916. Repealed. Acts 1953, 53rd Leg., p. 30, ch. 24, § 2. Eff. 90 days after date of adjournment

Offices of State Mining Board and Mine Inspector abolished and rights and duties transferred to Commissioner of Labor Statistics, see art. 5892.

Art. 5917. Map of mine

Offices of State Mining Board and Mine Inspector abolished and rights and duties transferred to Commissioner of Labor Statistics, see art. 5892.

TITLE 96—MINORS—REMOVAL OF DISABILITIES OF

Art. 5921b. Non-resident minors; classification; requisites of removal

Non-resident minors, owners of real property interests in this State, where it shall appear to their material advantage, and who come within one or the other of the following classes, to-wit: (1) who have had their disabilities of minority removed by decree of a court of competent jurisdiction in the State of their residence; (2) who, by the laws of such State are of legal age though not yet twenty-one years of age; (3) who, if residents, would come within the terms of Article 5921a, may have their disabilities of minority removed in this State and be thereafter held for all legal purposes of full age. The word "State," as used in this Article and in Articles 5922a and 5923a, applies to all of the United States and includes any territory or territorial possessions of the United States which is the legal place of residence of such non-resident minor. Added Acts 1953, 53rd Leg., p. 557, ch. 207, § 1.

Emergency. Effective May 27, 1953.

Art. 5922a. Non-resident minors; petition and hearing

Non-resident minors who may desire to have their disabilities of minority removed in this State shall appear in person in the court in which the petition seeking relief is filed. In all cases the petition for removal shall state the grounds relied on, whether the parents are living or dead, and the name and residence of the minor and of each living parent. It shall be sworn to by the father of said minor, or by the mother if the father be dead or incapacitated; or, if both parents are dead or incapacitated, by any other credible person cognizant of the facts. The petition shall be filed in the District Court of the county in this State in which any real property interest of the minor is situated and a hearing had as in the case of resident minors. If there be more than one county within such district, the Judge of said court may hold such hearing and remove the disabilities of such minor in any county within the district wherein he may be holding court, or may be found.

Petitions filed by minors falling in Class (1) shall have attached a complete transcript of the proceedings by which the disabilities of the applicant have been removed, verified by the dual certificates of the Judge and clerk of the court in which said disabilities were removed; petitions for applicants falling in Class (2) shall be supported by a birth certificate or other adequate proof of the applicant's age and by copy of the applicable law, certified to by the Secretary of State, or one holding a similar office, of the petitioner's state of residence; those falling within Class (3) shall be supported by the proof required for an applicant who is a resident of this State and coming within the terms of Article 5921a. Added Acts 1953, 53rd Leg., p. 557, ch. 207, § 1.

Emergency. Effective May 27, 1953.

Art. 5923a. Non-resident minors, citation and procedure

Unless the petition of a non-resident minor be sworn to by his father, a copy of the petition shall be served upon the County Judge of the county in which the petition is filed, and the trial court shall appoint a special guardian, who shall, in connection with the County Judge, represent the real and true interests of the minor in aiding or resisting his application. An allowance shall be made by the court to the special guardian, payable out of the minor's estate. If the petition be granted, the court shall, in its decree, validate and establish any judgment removing the disabilities of minority of the petitioner, shall specifically adjudge the minor of full age for all legal purposes in this State except as to the right to vote, and shall require that a copy of its decree, as well as the petition and the transcript or documentary evidence attached thereto, be recorded at the minor's expense in any county in which his estate, or any portion of the same, be situated. Added Acts 1953, 53rd Leg., p. 557, ch. 207, § 1.

Emergency. Effective May 27, 1953.

TITLE 102—OIL AND GAS

NATURAL GAS

GENERAL PROVISIONS

Art. 6008—1. Interstate Compact to Conserve Oil and Gas; Extension of Compact

Extension to Sept. 1, 1955:
U.S.—Resolution of Congress, Aug. 28, 1951, c. 350, 65 Stat. 199.
Ill.—Laws 1951, p. 1172, S.H.A. ch. 104, § 24.
Kan.—Laws 1951, ch. 329.
Neb.—Laws 1953, ch. 201.

NATURAL GAS

Art. 6066c. Cooperative facilities for conservation and utilization of gas

Section 1. The Railroad Commission of Texas (hereinafter called "Commission") may approve agreements, by persons owning or controlling leases or other interests in separate properties in oil fields, gas fields or oil and gas fields, for the construction and operation of cooperative facilities necessary for the conservation and utilization of gas, including facilities for extracting and separating hydrocarbons from natural gas or casinghead gas.

Such agreements shall only be approved by the Commission after application, notice and hearing and a finding by the Commission that such cooperative facilities are in the interest of conservation and that secondary recovery operations are not feasible or necessary.

No agreement for the construction or operation of such cooperative facilities 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 butanes, propanes, 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 provision 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 contracts for the construction and operation of cooperative facilities as herein provided.

The approval of any such agreement shall not of itself be construed as a finding that similar operations in other fields are wasteful or not in the interest of conservation.

Sec. 2. Agreements, and operations thereunder, in accordance with this Act, being necessary to prevent waste and conserve the natural re-

sources 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 the Anti-Trust Acts. However, if any court shall find any 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 interest; provided further, that if any court should find that a conflict exists between this and the above mentioned laws and 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.

Sec. 3. 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 1953, 53rd Leg., p. 407, ch. 117.

Emergency. Effective May 12, 1953.

Title of Act:

An Act authorizing the Railroad Commission of Texas to approve agreements for construction and operation of cooperative facilities for conservation and utilization of gas, after notice and hearing and certain findings by the Commission; providing restrictions on the nature of such agreements; making certain exceptions; stating the construction to be given this Act and its effect on other existing laws; providing a severability clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 407, ch. 117.

TITLE 103—PARKS

4F. JIM HOGG MEMORIAL PARK

Art. 6077h—2. Sale of iron ore

Section 1. The State Parks Board is hereby authorized and empowered to sell iron ore in place for reasonable and valuable considerations, located in or on the lands of Jim Hogg State Park and to grant all rights necessary to the development of said iron ore to the purchasers thereof. The Chairman of the State Parks Board is hereby authorized, for and on behalf of said Board, to execute and deliver the necessary instruments to convey said iron ore in place to the purchasers thereof.

Sec. 2. The iron ore 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 State Parks Board, has submitted the highest and best bid. The State Parks Board shall advertise for a period of two (2) weeks in at least one (1) weekly newspaper, published and circulated in Cherokee County, for the sale of such iron ore 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 (10)

days before the date of receiving the bids. All such competitive bids shall be kept on file by the State Parks Board 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 State Parks Board shall have the right to reject any and all of said bids and readvertise for new bids.

Sec. 3. There is hereby created a special fund to be known as the "Jim Hogg State Park Building Fund." The moneys derived from the sale of iron ore 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 the improvement of Jim Hogg State Park.

Sec. 4. The State Parks Board shall adopt proper forms and regulations, rules and contracts as will in its best judgment carry out the provisions of this Act and protect the income from the iron ore sold in place hereunder. A majority of the State Parks Board shall have power to act in all cases, except where otherwise herein provided. Acts 1953, 53rd Leg., p. 461, ch. 147.

Emergency. Effective May 14, 1953.

Title of Act:

An Act authorizing and empowering the State Parks Board to sell iron ore in place, for reasonable and valuable considerations, located in or on the lands of Jim Hogg State Park and to grant certain rights; authorizing the Chairman of the State Parks Board to execute and deliver the necessary instruments conveying said iron ore in place; providing for the terms and conditions of sale; providing that the moneys received from said sales shall be deposited in the "Jim Hogg State Park Building Fund"; providing for the expenditure of such funds; authorizing a majority of the State Parks Board to act; and declaring an emergency. Acts 1953, 53rd Leg., p. 461, ch. 147.

5. COUNTY PARKS

Art. 6079d. Validation of acts, proceedings and orders; taxes

Section 1. That all acts and proceedings in the Commissioners Court in counties having a population of five hundred thousand (500,000) or more, according to the last preceding Federal Census, heretofore had and taken or attempted to be taken to acquire and operate certain lands as county parks, under the provisions of Title 103, Chapters 5 and 6, of the Revised Civil Statutes of Texas, 1925, as amended, to wit: "Articles 6078–6081h, both inclusive of such Revised Civil Statutes, 1925, as amended," and all orders heretofore made and proceedings by and before Commissioners Courts of such counties to acquire and operate certain lands as county parks under the provisions of any of the foregoing Articles, shall be and the same are hereby ratified, validated, approved and confirmed in all respects, as if they had been duly and legally made in the first instance and as if same had been made with full statutory authority, regardless of whether the acquisition of such lands for use as county parks was by gift, purchase, condemnation proceedings, or otherwise.

Sec. 2. Any taxes heretofore levied by the Commissioners Court of such counties for the improvement and operation of such lands as county parks are hereby ratified and validated in all respects. All taxes either real, personal, or both heretofore levied, assessed and charged against any person by any Commissioners Court in such counties for the improvement and operation of county parks are hereby declared to be valid and binding tax obligations of said individuals and the same shall be collect-

ible under the laws of this State providing for the collection of delinquent taxes with penalty and interest. Acts 1953, 53rd Leg., p. 905, ch. 372.

Emergency. Effective June 8, 1953.

Title of Act:

An Act validating, ratifying, approving, and confirming the acquisition of certain lands for use as county parks in counties having a population of five hundred thousand (500,000) or more, according to the last preceding Federal Census, heretofore acquired and operated by such counties as county parks; validating, ratifying, approving and confirming certain tax levies and proceedings had or authorized by the Commissioners Court of such counties for the improvement and operation of such parks; and declaring an emergency. Acts 1953, 53rd Leg., p. 905, ch. 372.

TITLE 106—PATRIOTISM AND THE FLAG

Art. 6144. Repealed. Acts 1953, 53rd Leg., p. 27, ch. 21, § 1. Eff. 90 days after May 27, 1953, date of adjournment

TITLE 108—PENITENTIARIES

Art. 6166z1. Discharge

When a convict is entitled to a discharge from the State Penitentiary, or is released therefrom on parole or conditional pardon, the General Manager of the Texas Prison System or his Executive Assistant shall prepare and deliver to him a written discharge or release, as the case may be, dated and signed by him with seal annexed, giving convict's name, the name of the offense or offenses for which he was convicted, the term of sentence imposed and the date thereof, the county in which he was sentenced, the amount of commutation received, if any, the trade he has learned, if any, his proficiency in same, and such description of the convict as may be practicable. He shall be furnished, if needed, suitable civilian clothes, and all money held to his credit by any official of the Texas Prison System shall be delivered to him.

The amount of money which a convict is entitled to receive from the State of Texas when he is discharged from the State Penitentiary shall be determined as follows:

(a) If he has continuously served his sentence in one year or less flat time, he shall be given Twenty-five ($25.00) Dollars.

(b) If he has continuously served his sentence in more than one year flat time and in less than ten years flat time, he shall be given Fifty ($50.00) Dollars.

(c) If he has continuously served his sentence in ten or more years flat time, he shall be given Seventy-five ($75.00) Dollars.

(d) If he has continuously served his sentence in twenty or more years flat time, he shall be given One Hundred ($100.00) Dollars.

Each convict when released from the State Penitentiary on parole or conditional pardon shall be given Five ($5.00) Dollars in money and a ticket for transportation by railroad or bus to the place where he was convicted or to any other point in this State to which he desires to go, provided the distance to such point is not greater than to the place where he was convicted; except in cases where the convict is released on parole or conditional pardon which requires him to report at a more distant

place within this State than the place at which he was convicted, he shall be furnished transportation to the place where he is so required to report. As amended Acts 1953, 53rd Leg., p. 489, ch. 175, § 1.

Emergency. Effective May 19, 1953.

Section 2 of the amendatory Act of 1953 repealed art. 6196, and Vernon's Ann.C.C.P. art. 781b, § 17.

Art. 6196. Repealed. Acts 1953, 53rd Leg., p. 489, ch. 175, § 2. Eff. May 19, 1953

Release or discharge, see art. 6166z1.

TITLE 109—PENSIONS

1. STATE AND COUNTY PENSIONS

Art.
6228a—1. Employees executing waivers; credit for service [New].

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 Two Hundred Dollars ($200) 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 1953, 53rd Leg., p. 591, ch. 233, § 1.

Emergency. Effective May 27, 1953.

Art. 6228a. Retirement system for State employees

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 sixty (60) years who shall have completed at least fifteen (15) years of creditable service and shall become entitled to a service retirement allowance upon his attainment of the age of sixty (60) years, or at his option, at any date subsequent to his attainment of said age 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, provided, however, that any member who shall have completed twenty (20) years or more of creditable service as a commissioned peace officer engaged in criminal law enforcement activities of the Department of Public Safety, Game and Fish Commission, and Liquor Control Board, of the State of Texas, shall become entitled to his service retirement allowance immediately, regardless of age. As amended Acts 1953, 53rd Leg., p. 882, ch. 361, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the amendatory Act of 1953 provided that partial invalidity should not invalidate the remainder of the act. Section 3 repealed conflicting laws or parts of laws to the extent of the conflict only.

Art. 6228a—1. Employees executing waivers; credit for service

Any State employee who heretofore executed a waiver in the Employees Retirement System of Texas and who was employed by a State Department of the State of Texas during the fiscal year commencing September 1, 1952, shall have the privilege within one year from the effective date of this Act of electing to receive full credit for State employees' service in Texas prior to the year 1947, provided said employee within a period of five (5) years from September 1, 1953, shall deposit with the Employees Retirement System of Texas, at Austin, Texas, all back contributions and dues commencing with the State fiscal year, September 1, 1947. The amount to be deposited by each State employee shall be determined by the Employees Retirement System of Texas, based upon the number of years actually employed by the State since 1947 and the salary received. Said State employee shall be required to file a statement of all earnings from the State since September 1, 1947, on forms prescribed by the State Board of Trustees. All deposits made by each individual State employee shall be matched by an equal sum by the State of Texas, as now provided in the Employees Retirement System. There is hereby appropriated from the several funds from which the said State employees were paid an amount equal to the contributions of said State employees, based upon their salaries received from said funds. It is further provided that the State Board of Trustees shall certify to the State Comptroller the matching fund requirements of the State of Texas to equal the amount of contributions by said State employees, and the Comptroller shall authorize the State Treasurer to make such transfers of funds to the Employees Retirement System. Acts 1953, 53rd Leg., p. 442, ch. 130, § 1.

Emergency. Effective May 14, 1953.

Section 2 of the Act of 1953 repealed conflicting laws or parts of laws.

2. CITY PENSIONS

Art. 6243a. Firemen's, policemen's and fire alarm operators' pension system; cities and towns of 432,000 or more having fully or partially paid departments

Persons eligible to participate; members in armed services

Sec. 6. Any person who, at the establishment of said Fund, or thereafter, shall have been duly appointed and enrolled in the Fire Department, Police Department, or Fire Alarm Operators Department of any such city or town within the provisions of this Act, and who has signed an application for participation in said Fund, and has allowed deductions from his salary under any former law and still is in good standing, and who has filed written application within thirty (30) days after the organization of such Board, or who shall file his application within sixty (60) days after becoming a regular member of such Departments, and after he shall have served the usual probationary period, if any, and who shall have allowed such deductions from his salary; and in addition to the membership provided herein, any person heretofore duly appointed or enrolled in the Fire Department, Police Department, or Fire Alarm Operators Department of any such city or town who is not now a member of the Pension Fund, may file his application with the Board within sixty (60) days after this Act becomes effective and apply for participation therein; provided, however, that said applicant shall pass a physical examination of the same character that is required for original admission into the respective Department in which he serves, and provided that he shall pay into such fund a sum of money equal to the amount of salary deductions he would have paid had he joined immediately upon becoming eligible to participate in the benefits of said fund, as well as the beneficiaries hereinafter named shall be entitled to participate in said fund.

When any incorporated city containing the number of inhabitants stated in Section 1 of Chapter 173, page 292, Acts of the Regular Session of the 52nd Legislature [1], is consolidated under one government with any other municipality which has maintained a fully paid Fire and Police Department, all permanent policemen and firemen duly appointed or enrolled in the Fire Department or Police Department of the city or town surrendering its corporate existence and who are thereafter duly and lawfully appointed, enrolled or transferred to the respective departments of the city retaining its corporate existence, shall be entitled to membership in the Fund, and the benefits thereof, upon compliance with the requirements of this Act which provides the exclusive procedure for obtaining and maturing any rights and benefits under Chapter 33, Acts of 1941,[2] including all amendments thereto. Written application for participation must be filed with the Board within sixty (60) days after becoming a member of either of such Departments of said city, and in addition shall pass a physical examination of the same character that is required for original admission into the respective departments in which he subsequently serves, and provided he shall pay into such fund within a year the sum of money equal to the salary deduction he would have paid had he been eligible to membership upon becoming a policeman or fireman in any other city or town, and shall also allow the deductions from his current salary as therein provided. The benefits of this Fund accruing to such policemen or firemen shall be all of the benefits accruing to other

policemen or firemen generally under the provisions of the original Act of which this is an amendment, and accruing to his years of service, the time he was legally and regularly employed as a policeman or fireman in such other city or town. No policeman or fireman coming under the applicable provisions of this Section shall be entitled to the full benefits of this Act until all of the money herein required to be paid has been in fact paid to the custodian of the Fund. The custodian of the Fund shall certify to the governing body of the city the fact of compliance with this section, and the said governing body shall appropriate to said Pension Fund from any available funds a sum of money equal to the contributions it would have made had such policeman or fireman been originally employed by the consolidated city retaining its corporate existence. The provisions of this Act shall never be construed as permitting a policeman or fireman to be a member of more than one Pension Fund or to again become a contributing member of the Pension Fund where he is now, either for himself or his heirs receiving any payments from said Fund by reason of any service with the City Police and Fire Departments of the city retaining its corporate existence.

Any member of the Firemen, Policemen and Fire Alarm Operators Pension Fund at the time of the commencement of the Korean conflict; or who may hereafter become a member of said Pension Fund during said conflict or other national emergency connected therewith, who has entered the armed services of the United States or who may hereafter enter the armed services of the United States in any of its branches, voluntarily or involuntarily, or who may be called into the armed services as a member of the Organized Reserve Corps or Texas National Guard upon being released or discharged from said armed service of the United States, and upon his return to duty with the Fire Department, the Police Department, or Fire Alarm Operators Department of any city within the provisions of this Act, may make the payments into said Pension Fund that he would have paid, or would have been required to pay had he remained in said Fire Department, Police Department, or Fire Alarm Operators Department, without interest, within a period of one (1) year from the date of his re-entry into the service of the Department of which he was a former member, and shall be entitled to each and every benefit of said Firemen, Policemen and Fire Alarm Operators Pension Fund and his service shall be computed as being continuous for the purpose of benefits, longevity and retirement, and for all other purposes provided in the Firemen, Policemen and Fire Alarm Operators Pension Act for those members of the Firemen, Policemen and Fire Alarm Operators Pension Fund who remained and continued in that service; provided, however, that payments hereinabove referred to must be made in a lump sum, and until so made the provisions of these rules shall not apply and no person shall be entitled to the benefits hereof until such payment has been made in full. Any member of said Departments, at his option, who has already entered the armed service of the United States, or who may hereafter enter the armed service of the United States, voluntarily or involuntarily, may make such contributions to the Pension Fund monthly as though he were an active member of said Department, so that upon his return from the armed service he will have kept his payments into said Pension Fund current; provided, however, if any such member who makes such contributions monthly, dies while in the armed service of the United States or becomes disabled so as to prevent him from further rendering service as a Fireman, Policeman or Fire Alarm Operator, then and in that event the contributions made by said member, in the event

of death, shall be returned to his legal beneficiaries designated under the Pension Act, and no benefit to a widow or dependent shall accrue; and in the case of disability, the contributions made by the member during the time he was in the armed service of the United States shall be returned to him without interest. In the event any member of the Pension Fund shall die or become disabled through illness or injury while in the armed service of the United States, such member's widow, dependents or beneficiaries named in the Pension Act shall not be entitled to any of the benefits under the Pension Act; nor shall such injured or disabled member be entitled to any disability compensation; provided however, if any member becomes disabled through injuries or illness while in the armed service of the United States, and such member has had twenty years service and membership in the Pension Fund, then his beneficiaries, in case of death, or such member in case of disability injury while in the armed service shall be entitled to the benefits of the Pension Law. All pensions and benefits heretofore granted to such members under any law, or city charter of any city within the provisions of this Act, in force prior to the passage of this Act, such members having served in the armed forces of the United States in conformity with such prior law, or city charter, and having complied with the provisions of such law, or such city charter, are hereby validated. As amended Acts 1953, 53rd Leg., p. 3, ch. 3, § 2.

1 Section 1 of this article.
2 This article.

Certificate of retirement; retirement benefits; eligibility requirements; disability pension; rights upon leaving service

Sec. 7. Where any member of said Departments shall have contributed a portion of his salary as provided herein, and shall have served twenty (20) years in either of said Departments, he shall be issued a certificate of retirement, which said certificate shall thereafter be incontestable. The issuance of such certificate shall be mandatory upon the Board; provided, however, that when said member reaches the age of fifty (50) years he may, after making application, be retired. No person to whom such certificate shall have been issued who has not reached the age of fifty (50) years shall be entitled to receive any retirement benefits until he reaches the age of fifty (50) years, and then upon his application. If any such member shall voluntarily or involuntarily leave the service of the city after he has received such certificate and before he reaches the age of fifty (50) years, he shall not be entitled to participate in the benefits of this Act until he is fifty (50) years of age; provided, however, that if any such member voluntarily or involuntarily leaves the service of the city and thereafter becomes physically disabled before he reaches the age of fifty (50) years, he shall be entitled to apply for, and the Board may grant to him, a disability pension in accordance with this Act, unless such disability was caused by his committing a felony or by an intentional self-inflicted injury, which said pension shall become a retirement pension subject to the provisions of this Act upon his reaching the age of fifty (50) years. In the event such member so retiring, voluntarily or involuntarily, after he has such certificate and before he reaches the age of fifty (50) years, shall die, then his widow or children, or other dependents named in this Act, if any shall be entitled to share in the benefits of this Act. A member retiring under the provisions of this Act shall receive one-half (½) of the salary received by him at the time of his retirement; provided, however, that in no instance shall the monthly pension allowance awarded him be in

excess of one-half (½) of the base pay of a private per month, plus one-half (½) of the service money granted to the member under any provision of any State law or any city charter of any city within the provisions of this Act; which pension allowance shall be computed on the basis of the current payroll. This pension allowance, set out above based on the current payroll, shall be granted to the man going on the Pension Fund as well as the man already on the pension. Any member reaching the age of sixty-five (65) years and having served twenty (20) years in either of the Departments, and who has not then retired from such Departments, may be summoned before the Board for the purpose of determining whether or not he should be retired under the provisions of this Act. As amended Acts 1953, 53rd Leg., p. 3, ch. 3, § 3.

Pensions to disabled or diseased members

Sec. 9. When any member of the Fire Department, Police Department, and Fire Alarm Operators Department of the city or town within the provisions of this Act, and who is contributing to said Fund, as herein provided, shall become so permanently disabled through injury or disease, unless such disability was caused by his committing a felony or by an intentional self-inflicted injury, as to incapacitate him from the performance of his duties, and shall make written application subject to medical examination for such injuries or disease, he shall be retired from the service and be entitled to receive from the said Fund one-half (½) the base pay of a private per month, plus one-half (½) of the service money granted to the member under the provisions of any State law or any city charter of any city within the provisions of this Act; which base pay of a private shall be computed on the basis of the current payroll. The pension allowance shall be granted to the man going on a pension as well as to the man already on the pension at the time he became disabled or diseased, the same to be paid in monthly installments, which monthly installments shall in no instance exceed one-half (½) of the base pay of a private per month, plus one-half (½) of the service money granted to the member under the provisions of any State law or any city charter of any city within the provisions of this Act. In no case shall a disability claim be acknowledged or award made hereunder until disability has been proven to be continuous and the member wholly incapacitated for a period of not less than ninety (90) days. As amended Acts 1953, 53rd Leg., p. 3, ch. 3, § 4.

Death benefits to widow and minor children of member

Sec. 10. In case of the death before or after retirement of any member of the Fire Department, Police Department, or Fire Alarm Operators Department of any city or town within the provisions of this Act, from disease contracted or injury received and who at the time of his death or retirement was a member of either of said Departments and a contributor to the said Fund, leaving a widow, child or children under seventeen (17) years of age, the widow and such child or children shall be entitled to receive from the said Fund an amount not to exceed one-half (½) of the base pay of a private per month, plus one-half (½) of the service money granted to members under the provision of any State law or any city charter of any city within the provisions of this Act; one-half (½) of the widow's amount in the aggregate shall go to the children under seventeen (17) years of age, and balance of one-half (½) for the widow. No child of any such member resulting from any marriage contract subsequent to the date of the retirement of such member, shall be entitled to a pension under this Act. In case there are no children, the widow

shall receive one-fourth (¼) of the base pay of a private per month, plus one-fourth (¼) of the service money granted to members under the provisions of any State law or any city charter of any city within the provisions of this Act. The one-fourth (¼) awarded to the children shall be paid by the Board to the widow, who shall equally and uniformly distribute the amount among the children. In no instance shall the amount received by the widow, child or children, exceed a pension allowance of one-half (½) of the base pay of a private per month, plus one-half (½) of the service money granted to members under any State law or any city charter of any city within the provisions of this Act. Wherein the Board, after a thorough examination and by a majority vote in favor thereof, determines that the child or children are unable to and lack the proper discretion to handle said amount provided herein for them, shall designate and appoint said child's or children's natural guardian as custodian of said Fund. Where there is no parent and natural guardian living, the Board shall have the power and authority to designate a suitable person to receive and administer the said Fund; which said party shall receive for such child or children under the age of seventeen (17) years, one-fourth (¼) of the base pay of a private and one-fourth (¼) of the service money granted to members under any State law or any city charter of any city within the provisions of this Act, per month. The said party designated by the Board shall receive his authority and power according to established legal practice. When any child or children, who are beneficiaries under this Act, shall reach the age of seventeen (17) years, then such child or children, if any, shall no longer participate in the division of said wages of said deceased, but the same shall be paid to the remaining child or children, if any under seventeen (17) years of age. In no case shall the amount paid to any one family exceed the amount of one-half (½) of the base pay of a private per month, plus one-half (½) of the service money granted to members under the provisions of any State law or any city charter of any city within the provisions of this Act. Upon the remarriage of the widow, either statutory or common law, or the marriage of any child granted such pension, the pension shall cease. No widow of any such member resulting from any marriage contract subsequent to the date of the retirement of said member, shall be entitled to a pension under this Act. As amended Acts 1953, 53rd Leg., p. 3, ch. 3, § 5.

Death benefits to dependent father and mother of member

Sec. 11. If any member of the Fire, Police, and Fire Alarm Operators Department of any city within the provisions of this Act dies from injury received or disease contracted, who was a member of either of such Departments and a contributor to said Fund and entitled to participation in said Fund himself, leaves no widow or child but leaves surviving him a dependent father and mother wholly dependent upon said person for support, such dependent father and mother shall be entitled to receive one-half (½) of the base pay of a private per month, plus one-half (½) of the service money granted to members under the provisions of any State law or any city charter of any city within the provisions of this Act, to be equally divided between said father and mother, so long as they are wholly dependent. Where there is one dependent, either father or mother, the Board shall grant the surviving dependent one-fourth (¼) of the base pay of a private per month, plus one-fourth (¼) of the service money granted to members under any provisions of any State law or any city charter of any city within the provisions of this Act. The Board shall have authority to make a thorough investigation

and from investigation determine the facts as to the dependency of the said parties and each of them, as to how long the same exists; and may, at any time, upon the request of any contributor to such Fund, reopen any award made to any of said parties and discontinue such pension as to all or any of them as it may deem proper; and the findings of said Board in regard to any matters, as well as to all pensions granted under this Act, shall be final upon all parties seeking a pension as a dependent of said deceased, or otherwise, until such award of the trustee shall have been set aside or revoked by a court of competent jurisdiction. As amended Acts 1953, 53rd Leg., p. 3, ch. 3, § 6.

Emergency. Effective Feb. 9, 1953.

Sections 1, 7-9 of the amendatory Act of 1953, read as follows:

"Section 1. This Act shall apply to those cities and those cities only which come within and are now within the provisions of Senate Bill No. 128, Acts 1951, 52nd Legislature, Regular Session, Chapter 173, page 292, Section 1, which said Act applies to all cities and towns within this State which operate a separate Firemen's, Policemen's and Fire Alarm Operators' Pension System, and which contain and have four hundred thirty-two thousand (432,000) or more inhabitants according to the last preceding Federal Census and having a fully or partially paid Fire, Police, and Fire Alarm Operators Departments.

"Sec. 7. All pensions and benefits heretofore granted by the said Board of any city within the provisions of this Act resulting from death, disease or injury whether the same was received in the line of duty or not are hereby validated.

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

"Sec. 9. If any section, clause, part, phrase, or word of this Act shall be held by the courts to be unconstitutional or invalid, it is declared to be the legislative intent that such invalidity shall not invalidate, impair or affect the remaining portions of this Act, and that such remaining portions of this Act be and the same are enacted regardless of such invalidity of any part of this Act."

Art. 6243e. Firemen's Relief Pension Fund

Retirement age and pension

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 fireman, shall be entitled to be retired from such service or department and shall be entitled to be paid from the Firemen's Relief and Retirement Fund of that city or town, a monthly pension equal to one half of his average monthly salary not to exceed a maximum of One Hundred Dollars ($100) per month, except as hereinafter provided; such average monthly salary to be based on the monthly average of his salary for the five (5) year period preceding the date of such retirement; provided further, that if his average monthly salary is Fifty Dollars ($50) or less per month, or if a volunteer fireman with no salary, he shall be entitled to a monthly pension or retirement allowance of Twenty-five Dollars ($25). 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 this 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 bene-

fits 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. Provided, further, that any regularly organized 'full paid' fire department in any city or town in this State now within or that may come within the provisions of this Act may, upon a majority vote of said Board of Trustees, increase the maximum pension to One Hundred and Fifty Dollars ($150) per month. As amended Acts 1953, 53rd Leg., p. 352, ch. 82, § 1.

Emergency. Effective April 29, 1953.

Retirement on disability

Sec. 7. Whenever a person serving as an active fireman duly enrolled in any regularly active fire department in any city or town in the State, now within, or that may hereafter come within the provisions of this Act, shall become physically or mentally disabled while in and/or in consequence of, the performance of his duty, said Board of Trustees may, upon his request, or without such request if it shall deem proper and for the good of the department, retire such person from active service either upon total or partial disability as the case may warrant and shall order that he be paid from such Fund, (a) if for total disability, an amount equal to one half the average monthly salary of such fireman, not to exceed the sum of One Hundred Dollars ($100) per month, except as hereinafter provided, such average monthly salary to be based on the monthly average of his salary for the five (5) year period, or so much thereof as he may have served, preceding the date of such retirement; provided that if such average monthly salary be Fifty Dollars ($50) or less per month, or if he be a volunteer fireman with no salary, the amount so ordered paid shall not be less than Twenty-five Dollars ($25) per month; and provided further that any regularly organized 'full paid' fire department in any city or town in this State now within or that may come within the provisions of this Act may, upon a majority vote of the participating members of that respective Fund, increase the maximum disability pension to One Hundred and Fifty Dollars ($150) per month; or, (b) if the disability be less than total, then such sum as in the judgment of the Board of Trustees may be proper and commensurate with the degree of disability; provided further, that if and when such disability shall cease, such retirement or disability allowance shall be discontinued and such person shall be restored to active service at not less than the same salary he received at the time of his retirement for disability. As amended Acts 1953, 53rd Leg., p. 352, ch. 82, § 2.

Emergency. Effective April 29, 1953.

Death or disability from cause not resulting from performance of duties

Sec. 7A. Whenever a person serving as an active fireman duly enrolled in any regularly active fire department in any city or town in the State now within or that may hereafter come within the provisions of this Act shall die or become disabled from any cause other than a disability acquired in the performance of his duty as a fireman, a pension allowance shall be paid to the widow or fireman. The monthly pension allowance shall be computed as follows: five per cent (5%) of the total amount the individual fireman or widow would have been entitled to receive had such death or disability occurred as the result of such fireman's being incapacitated or killed while in and/or in consequence of the

performance of his duty as a fireman shall be allowed for each year of participation in the relief and retirement fund. In no event, however, shall such fireman or widow receive an amount less than Fifty Dollars ($50) per month. If such fireman be a volunteer fireman and thereby receiving no salary, the amount so ordered paid, if all of the other conditions have been met, shall be not less than Twenty-five Dollars ($25) per month.

Provided, however, that the provisions of this section shall not apply if the death or disability of the fireman was caused while such fireman was gainfully employed by someone other than the respective fire department for which he was employed or contributed his services.

Provided further, that the provisions of this section shall not be applicable to any particular relief or retirement fund until after an election has been held and the majority of the participating members of that respective fund have voted to include the provisions contained in this section within the Relief and Retirement Fund. At such election the effective date of these provisions shall also be set. Added Acts 1953, 53rd Leg., p. 352, ch. 82, § 3.

Emergency. Effective April 29, 1953.

Art. 6243g. Pension system in cities over 384,000

Persons eligible in cities hereafter coming under this Act

Sec. 3A.

(b) Any person who shall hereafter become an employee of any such city shall automatically and immediately at the beginning of his first full pay period, become a member of the Pension System as a condition of his employment. As amended Acts 1953, 53rd Leg., p. 888, ch. 367, § 1.

(d) Any employee who was an employee of any such city and who was eligible for membership in such system upon its original establishment on May 24, 1943, and who declined to become a member of such system and who has not thereafter become a member as provided in the Amended Act of 1947, may hereafter become a member by paying to such system an amount equal to the total of all of his monthly contributions back to May 24, 1943, or to the date of employment if said employment did not date back to May 24, 1943, and such employee shall thereupon become entitled to credit for all his service rendered such city as an employee prior to becoming a member in said Pension System, provided that such payments of back contributions be made by payroll deductions within a period to be determined by said Board, plus interest at the rate of six per cent (6%) per year, and that said employee's final payment of all back contributions shall have been made in accordance with this Section before prior service shall be credited for the purpose of receiving the pension authorized by such prior service. It is further provided that said employee shall submit to a physical examination, said physician being selected by the Pension Board, with the employee paying the cost of any such examination required, the Pension Board being authorized to reject any membership into the pension system any employee who fails to qualify through physical examination, or other requirements as established by the Board.

The provisions of this paragraph shall expire on January 1, 1954, and thereafter any employee who has still not become a member shall become a member only after passing a physical examination, and meeting other requirements, as prescribed by the Pension Board, and such employee who becomes a member after January 1, 1954, shall not receive credit for services rendered any such city prior to becoming a member of such system. Added Acts 1953, 53rd Leg., p. 888, ch. 367, § 2.

Retirement on pension

Sec. 12. Any member of such Pension System who has been in the service of the city for the period of twenty-eight (28) years and has attained fifty-five (55) years of age shall be entitled to a retirement Pension of One Hundred Dollars ($100) per month for the rest of his life, upon his retirement from the service of said city. Upon the completion of said twenty-eight (28) years of service and attaining fifty-five (55) years of age, such Pension Board shall issue to said member a certificate showing that he is entitled to said retirement Pension and thereafter when such member retires, whether such retirement be voluntary or involuntary, such monthly payment shall begin forthwith and continue for the remainder of said member's life. Upon the date of any member's retirement, if he shall have served in excess of twenty-eight (28) years, he shall in addition to the said sum of One Hundred Dollars ($100), receive an additional sum of Three Dollars and Fifty Cents ($3.50) per month for each additional year served in excess of twenty-eight (28) years. If said member continues his service with said city in excess of twenty-eight (28) years, such member shall be required to continue his monthly payments into the fund during such additional period of service. If any member of such System is retired for any reason prior to completing twenty-eight (28) years service, and such member has completed at least ten (10) years service, he shall receive a monthly pension of less than One Hundred Dollars ($100) calculated on the prorata basis that his total service bears to the full term of twenty-eight (28) years. Provided, that where any member of any such System has completed ten (10) years service with such city and shall thereafter attain sixty (60) years of age, he may, at his option, be retired and upon retirement shall receive a monthly Pension which shall be calculated on the pro rata basis that his term of service upon reaching sixty (60) years of age bears to the full term of twenty-eight (28) years. It shall be compulsory for any member to retire from service upon attaining sixty-five (65) years of age, unless his service is extended by the governing body of the city upon the recommendation of the chief administrative officer of such city, which in no event shall be beyond the employee's reaching seventy (70) years of age. As amended Acts 1951, 52nd Leg., p. 378, ch. 242, § 1B; Acts 1953, 53rd Leg., p. 888, ch. 367, § 3.

Disability pensions

Sec. 13. If any member has completed ten (10) years but less than twenty-eight (28) years service with the city and shall thereafter become totally and permanently disabled for any reason whatsoever, he shall be retired on a monthly Pension which shall be calculated on the prorata basis that his term of service bears to the full term of twenty-eight (28) years. If any member has completed twenty-eight (28) years service with the city and thereafter becomes totally and permanently disabled for any reason whatsoever, he shall be retired on the full One Hundred Dollars ($100) per month Pension, plus any bonus accrued for additional service as provided in Section 12, hereof.

If any member has completed less than ten (10) years service and becomes totally and permanently disabled as a result of the performance of his duties or as a consequence of such performance, he shall be retired on a monthly Pension of Thirty-five Dollars and Seventy Cents ($35.70) per month.

If such member becomes disabled from a chronic disease or infirmity of the body such as (but not limited to) tuberculosis, heart disease, ar-

thritis, varicose veins, high blood pressure, and the like, and such member has completed not less than three (3) years continuous service, the Board shall be entitled to presume that the disease or infirmity arose as a consequence of such member's performance of duty, in the absence of convincing evidence to the contrary. In the case of less than three (3) years service, the burden shall be on the employee to show that the disabling chronic disease or infirmity arose as a consequence of his performance of duty. In any event, the Board's decision shall be final.

By "total and permanent disability" is meant such disability as permanently incapacitates a member from performing the usual and customary duties which he has been performing for such city.

Before any disability Pension is allowed, the Pension Board shall require such medical examination and such other evidence as it may see fit to establish such total and permanent disability, as above provided.

When any member has been retired for total and permanent 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, 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 payments stopped. As amended Acts 1953, 53rd Leg., p. 888, ch. 367, § 4.

Termination of employment; reemployment

Sec. 16. When any member of such Pension System shall leave the employment of such city, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall thereupon cease to be a member of such Pension System, but shall have refunded to him all of the payments made by him into said Pension Fund by way of salary deductions without interest, except the sum of Twenty-five Dollars ($25), which sum of Twenty-five Dollars ($25) shall be withheld from such refund to compensate the System for disability coverage during the period of employment of such member, and if he shall have paid in less than Twenty-five Dollars ($25), he shall not be entitled to any reimbursement; provided, that if such member has completed twenty-eight (28) years, or more, of service with the city prior to becoming fifty-five (55) years of age, and is let out of employment by the city, he may allow his prior payments to remain in the Pension Fund and such member, but not the city, shall continue such monthly payments into the Pension Fund until he becomes fifty-five (55) years of age, whereupon he will be entitled to a retirement Pension for life for such amount as he would have received had he continued working for such city.

It is contemplated that said sum shall be paid such departing member in a lump sum, but if in the opinion of the Pension Board, the funds on hand are too low to justify such lump sum payment, said payment shall be refunded on a monthly basis in such amounts as may be determined by the Pension Board.

When a member has left the service of the city 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, he shall thereupon be rein-

stated 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 residing in said city, satisfactory to the Pension Board. Prior service of such member with such city shall not be counted toward his retirement Pension unless such member returns to the service within ten (10) years from his separation therefrom and also shall, within six (6) months after his reemployment by the city, repay to such Pension Fund all moneys withdrawn by him upon his separation from the service, plus interest thereon at the rate of three per cent (3%) per annum from date of such withdrawal. As amended Acts 1951, 52nd Leg., p. 378, ch. 242, § 1C; Acts 1953, 53rd Leg., p. 888, ch. 367, § 5.

Emergency. Effective June 8, 1953.

TITLE 110A—PUBLIC OFFICES

Art. 6252—6. State property; responsibility and accounting

Agencies and Property Subject to Control

Sec. 4.

(c) All personal property owned by the State shall be accounted for by the agency which possesses the property. The Comptroller shall by regulation define what is meant by personal property for the purposes of this Act. Unless the Comptroller prescribes otherwise, personal property shall mean all non-consumable personal property. In promulgating such regulations, the Comptroller shall take into account the value of the property, its expected useful life, and the cost of record keeping should bear a reasonable relationship to the cost of the property upon which records are kept. The Comptroller shall consult with the State Auditor in making such regulations and the Auditor shall cooperate with the Comptroller in the exercise of this rule-making power by giving technical assistance and advice. As amended Acts 1953, 53rd Leg., p. 503, ch. 181, § 1.

Emergency. Effective May 19, 1953.

Property Responsibility

Sec. 5.

(g) The Comptroller shall supervise the property records of each agency so that the records accurately reflect the property currently possessed by the agency. The Comptroller shall prescribe the methods whereby items of property are deleted from the property records of the agency. Property that has become surplus, or obsolete and no longer serviceable and has been turned over to the Board of Control for disposal under the laws relating thereto shall be deleted from the Comptroller's records upon the authorization of the Board of Control. Property that is missing from the agency or property that is disposed of directly by the agency in a legal manner shall be deleted from the Comptroller's records upon the authorization of the State Auditor. As amended Acts 1953, 53rd Leg., p. 503, ch. 181, § 2.

Emergency. Effective May 19, 1953.

Art. 6252—7. Loyalty oaths

Oath of persons receiving salary or compensation

Section 1. No funds of the State of Texas shall be paid to any person as salary or as other compensation for personal services unless and until such person has filed with the payroll clerk, or other officer by whom such salary or compensation is certified for payment, an oath or affirmation stating:

"1. That the affiant is not, and has never been, a member of the Communist Party. (The term 'Communist Party' as used herein means any organization which (a) is substantially directed, dominated or controlled by the Union of Soviet Socialistic Republics, or its satellites, or which (b) seeks to overthrow the Government of the United States, or of any State, by force, violence or any other unlawful means); and

"2. That the affiant is not, and, during the preceding five year period, has not been, a member of any organization, association, movement, group or combination which the Attorney General of the United States, acting pursuant to Executive Order No. 9835, March 21, 1947, 12 Federal Register 1935,[1] has designated as totalitarian, fascist, communist or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution of the United States, or as seeking to alter the form of Government of the United States by unconstitutional means; or, in the event that the affiant has during such five year period been a member of any such organization, association, movement, group or combination, he shall state its name, shall state in detail the circumstances which led him to join it, and shall state that, at the time when he joined and throughout the period during which he was a member, he did not know that its purposes were the purposes which the Attorney General of the United States has designated; and

"3. That the affiant is not, and, during the preceding five year period, has not been, a member of any 'Communist Political Organization' or 'Communist Front Organization' registered under the Federal Internal Security Act of 1950 (50 U.S.C.A., sec. 781, et seq.) or required to so register under said Act by final order of the Federal Subversive Activities Control Board; or, in the event that the affiant has during such five year period been a member of any such organization, he shall state its name, shall state in detail the circumstances which led him to join it, and shall state that, at the time when he joined it and throughout the period during which he was a member, he did not know that its purpose was to further the goals of the Communist Party or that it was controlled by the Communist Party."

1 5 U.S.C.A. § 631 note.

Lists of subversive organizations

Sec. 2. The Department of Public Safety shall obtain a list of the organizations, associations, movements, groups and combinations comprehended by Subdivisions 2 and 3 of Section 1 hereof, and shall furnish a copy of such list to the various agencies which expend funds of this State. Such agencies shall make copies of such list and shall furnish them to their employees in order that the employees can readily perceive whether they can lawfully and truthfully file the oath or affirmation required herein.

Oath of author of school textbooks

Sec. 3. The State Board of Education shall neither adopt nor purchase any textbook for use in the schools of this State unless and until the author of such textbook files with the Board an oath or affirmation reciting the matters set forth in Subdivisions 1, 2 and 3 of Section 1 hereof; provided, however, that if the publisher of any such textbook shall represent to the Board under oath that the author of any textbook is dead or cannot be located, the Board may adopt and purchase such textbook if the publisher thereof executes an oath or affirmation stating that, to the best of his knowledge and belief, the author of the textbook, if he were alive or available, could truthfully execute the oath or affirmation required by the first clause of this Section 3. If the Board is not satisfied with respect to the truthfulness of any oath or affirmation submitted to it by either an author or publisher of a textbook, it may require that evidence of the truthfulness of such oath or affirmation be furnished it, and it may decline to adopt or purchase such textbook if it is not satisfied from the proof that the oath or affirmation is truthful.

Other loyalty oaths superseded

Sec. 4. It is specifically provided, however, that the oath required herein shall supersede all other loyalty oaths now required by law or that may be required in appropriation Acts by the Legislature.

Severability of provisions

Sec. 5. If any portion of this Act should be held to be unconstitutional, the unconstitutionality of such portion shall not affect the validity or application of the remainder of the Act. Acts 1953, 53rd Leg., p. 51, ch. 41.

Emergency. Effective March 23, 1953.

Title of Act:

An Act providing that no funds of the State of Texas shall be paid to any person as salary or as other compensation for personal services unless and until such person files the oath or affirmation required by this Act; prescribing the provisions of the oath or affirmation; requiring the Department of Public Safety to obtain and distribute certain information referred to in the oath or affirmation; requiring agencies of this State to make a further distribution of such information; prohibiting the State Board of Education from adopting or purchasing any textbook unless and until the author of such textbook takes the oath or affirmation required by this Act; providing for an oath or affirmation by the publisher of a textbook if the author thereof is dead or cannot be located; providing the oath herein required shall supersede all other loyalty oaths now required by law or required in appropriation acts by the Legislature; containing a severability clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 51, ch. 41.

Art. 6252—8. Vacation for employees paid on hourly or daily basis

All State departments, institutions, and agencies are hereby authorized to grant to all employees who are paid on an hourly or daily basis and who have been continuously employed by the State of Texas for six (6) months a vacation with full pay for the same length of time as the vacation granted to employees who are paid on a monthly basis. Acts 1953, 53rd Leg., p. 642, ch. 248, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Title of Act:

An Act authorizing all State departments, institutions, and agencies to grant certain employees vacations with full pay for the same length of time as vacations granted other employees; and declaring an emergency. Acts 1953, 53rd Leg., p. 642, ch. 248.

TITLE 112—RAILROADS

CHAPTER TWELVE—ISSUANCE OF STOCKS AND BONDS

Art. 6528. 6725 Registering bonds

When such bonds shall be presented to the Secretary of State with said direction to register, he shall register said bonds by entering a description thereof in a book to be kept for that purpose, which shall show the date, number, amount, when due, the rate of interest on each bond, and also the date when the same is registered. The Secretary of State shall indorse on each bond, under the seal of his office and his official signature, together with the date thereof, as follows: 'This bond is registered under the direction of the Railroad Commission of Texas.' Provided, however, that at the direction of the Secretary of State his said seal may be a facsimile seal in lieu of his manually impressed seal and his said signature may be his facsimile signature in lieu of his manual signature. No bond or other evidence of debt, hereafter issued by or under the authority of any person, firm, corporation, court, or railroad company, whereby a lien is created on its franchise or property situated in this State, shall be valid or have any force until the same has been registered as required herein. As amended Acts 1953, 53rd Leg., p. 582, ch. 225, § 1.

Emergency. Effective May 27, 1953.

CHAPTER THIRTEEN—MISCELLANEOUS RAILROADS

Art.
6550(a). Texas State Railroad [New].

Art. 6550a. Repealed. Acts 1953, 53rd Leg., p. 79, ch. 58, § 12. Eff. April 8, 1953.

Art. 6550(a). Texas State Railroad

Board of Managers

Section 1. The Governor of the State of Texas is hereby authorized to appoint three (3) men who shall constitute the Board of Managers of the Texas State Railroad, which shall be an agency of the State of Texas. Said three (3) men shall first be appointed for terms of two (2), four (4) and six (6) years, respectively. Thereafter the Governor shall, except in appointments to fill unexpired terms, appoint each Board member for a term of six (6) years. All appointments to said Board shall be subject to confirmation by the Senate. The Governor shall designate one (1) member of said Board to act as Chairman for the first two (2) years, thereafter designating a different Board member as Chairman for the following two (2) years, it being the intention of the Legislature that the office of Chairman should be rotated consecutively among all members of said Board. The members of said Board shall serve without pay, provided, however, that they may be reimbursed, in the same manner as generally provided for other State agencies, for such actual and necessary travel expenses as may be incurred by them while in the performance of their duties as members of said Board of Managers and for which the Legislature shall appropriate funds.

Delivery of railroad and property to board; authority of board; ratification of acts of prior board

Sec. 2. Immediately upon the taking effect of this Act it shall be the duty of the present Board of Managers to transfer and deliver possession of said Railroad, together with all equipment, supplies, choses, books, records, and documents of every character, and all property of whatever kind belonging to the said Railroad, to the Board of Managers created by this Act and appointed by the Governor of the State of Texas. The said Board of Managers shall continue to exercise full and plenary control and management of the properties of the Texas State Railroad and all acts of prior Boards of Managers of the Texas State Railroad are hereby ratified and confirmed.

Sale or lease; contracts; proceeds

Sec. 3. The Board of Managers is hereby authorized, subject to the approval of the Governor of the State of Texas, to sell for not less than One Million Dollars ($1,000,000) or lease, or to make and enter into any other contract or contracts, agreement or agreements, whether in the nature of an option contract, trackage agreement, or of any other nature or character whatsoever, to or with any person, firm, or corporation, so long as in the judgment of the Board of Managers the best interest of said Railroad and the State will be served thereby. Such authority is to be construed to apply to all or any part of any property right, franchise, privilege or other matter or thing belonging to the Texas State Railroad or constituting a part thereof. All money received by the said Board from any sale, lease, rental, or other disposition of all or part of the facilities of the Texas State Railroad shall be transmitted to the State Treasurer and placed in a special fund, which fund shall be used for the payment of all expenses of the Board of Managers herein provided as appropriated by the Legislature, and the remaining balance shall be applied, first, to the retirement of principal of and accrued interest on the outstanding bonds of said Railroad now owned by the Public School Fund of the State of Texas; thereafter, such money shall be paid into the General Revenue Fund of this State.

Annual report

Sec. 4. On or before the first day of June of each year the Board of Managers shall furnish a report to the Comptroller of Public Accounts showing the financial condition of said Railroad for the preceding calendar year. A copy of said annual report shall be mailed at the same time to the Governor. The Board is hereby authorized to employ, and to compensate from funds appropriated by the Legislature, necessary clerical help in the preparation of said annual report.

Audit of lessee's books

Sec. 5. The State Auditor shall, at the request of the Board, examine and audit the books of any railroad which has leased all or any part of the properties of the Texas State Railroad for the purpose of determining whether the financial or other report made by such lessee railroad to the Board is true and correct. The State Auditor is hereby authorized to appoint a temporary auditor or auditors skilled in railroad accounting to assist in making such inspection and audit. The compensation and necessary travel expenses of such assistant auditor or auditors shall be paid by the Board of Managers out of funds appropriated by the Legislature for said purpose.

Free transportation of members of board

Sec. 6. Each member of the Board of Managers is hereby authorized to receive for his personal use, and all railroad corporations and transportation lines are authorized to furnish said member, free transportation or passes over their respective line or lines of transportation.

Ratification of lease

Sec. 7. The contract heretofore entered into between the Board of Managers of the Texas State Railroad and the Texas and New Orleans Railroad Company for the lease of properties belonging to the Texas State Railroad for a period of ten years, commencing the first day of January, 1953, which contract was entered into on the eleventh day of December, 1952, and approved by the Governor of Texas on the twenty-second day of December, 1952, is hereby in all things ratified and confirmed.

Meetings of board

Sec. 8. The Board of Managers of the Texas State Railroad shall hold at least one regular meeting to be called by the Chairman not later than the first day of May each year, and said Board shall make one annual inspection of the property of the Texas State Railroad. The Board may hold such other meetings as may be necessary which may be called by any member of said Board. At all meetings of said Board two members shall constitute a quorum.

Title of state to rails

Sec. 9. The title to all steel rail now upon the roadbed of the Texas State Railroad, and allotted to the State of Texas by the United States under an Act of Congress from the surplus materials in the possession of the United States at the conclusion of the late war with the German Imperial Government, is hereby vested in the State of Texas exclusively for the benefit of said Texas State Railroad, subject, however, to all the provisions of the aforesaid Act of Congress.

Purchaser's title to rails

Sec. 10. If hereafter the said Texas State Railroad shall be sold or otherwise disposed of under authority of law any conveyance or assignment lawfully executed pursuant to said sale shall vest title to said rail absolutely in the purchaser or grantee thereunder to the exclusion of each and every agency of the Government of the State of Texas and the United States. Acts 1953, 53rd Leg., p. 79, ch. 58.

Emergency. Effective April 8, 1953.

Section 11 of the Act of 1953 provided that the act should be codified as art. 6550(a) of the Revised Civil Statutes of 1925.

Section 12 repealed Acts 1925, 39th Leg., ch. 169, previously constituting Arts. 6550a and 6550b. It also repealed Acts 1921, 37th Leg., Reg. Sess., chapter 26, as amended by Acts 1921, 37th Leg., 2nd Called Sess., chs. 3, 4, and Acts 1923, 38th Leg., Reg. Sess., ch. 3, evidently being laws referred to in the Preamble as having been continued in force by section 13 of the Final Title of the Revised Civil Statutes.

The Act of 1953 contained the following preamble:

"Whereas, The laws creating the Board of Managers of the Texas State Railroad and defining its powers and duties were enacted in 1921 and 1923, and were continued in effect by Section 13 of the Final Title of the Revised Civil Statutes of Texas of 1925; and

"Whereas, These laws have not since been altered or amended to conform to the changes in conditions governing the management and operation of the Texas State Railroad; and

"Whereas, The Legislature considers it an imperative necessity to enact new legislation to govern the proper operation and management of the Texas State Railroad so as to secure revenue therefrom; therefore."

Title of Act:

An Act creating a Board of Managers for the Texas State Railroad as an agency of the State of Texas; providing for the appointments, terms, powers and duties of such Board members; ratifying the acts of prior Boards; directing that the present Board transfer possession of the Texas State Railroad to the Board of Managers herein created; authorizing the Board to sell for not less than One Million Dollars ($1,000,000) or lease or contract in regard to the Texas State Railroad; providing for the transmittal of all money received by the Board to the State Treasurer and directing his disposition of the same; providing for annual reports by said Board and for certain audits by the State Auditor; authorizing free transportation for Board members; ratifying a certain lease contract now in force; providing for meetings of the Board; confirming title to certain steel rails; providing for a codification number; repealing certain laws; and declaring an emergency. Acts 1953, 53rd Leg., p. 79, ch. 58.

Art. 6550b. Repealed. Acts 1953, 53rd Leg., p. 79, ch. 58, § 12. Eff. April 8, 1953.

TITLE 113—RANGERS—STATE

Arts. 6560–6573. Repealed. Acts 1953, 53rd Leg., p. 32, ch. 26, § 1. Eff. 90 days after May 27, 1953, date of adjournment.

TITLE 115—REGISTRATION

CHAPTER THREE—EFFECT OF RECORDING

Art. 6644. Federal Lien Record

The county clerk of each county is authorized to, and shall either file, or file and record, as is or may be provided by the laws of the United States, every notice, abstract or statement of any lien or claim, or release or discharge thereof, in favor of the United States or of any department or bureau thereof, when any such notice, abstract or statement prepared in conformity to the laws of the United States, is presented to him for filing or filing and recording. The county clerk shall number such notices, abstracts or statements, in the order in which they are filed, and if they are required to be recorded, he shall record them in a well-bound book to be styled, "Federal Lien Record," and in either case he shall index them alphabetically under the names of the persons named therein or affected thereby, such index to be kept in a well-bound book styled, "Index to Federal Liens," and the county clerk shall charge a fee of One Dollar ($1) for each instrument filed or recorded. His failure to file, record or index properly any such notice, abstract or statement as herein required, or to be compensated therefor, shall not affect the validity or legality of any such lien or claim, or release or discharge thereof. As amended Acts 1953, 53rd Leg., p. 12, ch. 7, § 1.

Emergency. Effective Feb. 19, 1953.

TITLE 116—ROADS, BRIDGES, AND FERRIES

CHAPTER ONE—STATE HIGHWAYS

1. STATE HIGHWAYS

Art. 6673a. Sale or exchange and conveyance of abandoned routes; correction deeds; tax exemption

Sale or exchange; deeds

Section 1. Whenever the State Highway Commission determines that any real property, or interest therein, heretofore or hereafter acquired by the State for highway purposes, is no longer needed for such purposes, and in the case of highway right-of-way it has further determined that such right-of-way is no longer needed for use of citizens as a road, the State Highway Commission may recommend to the Governor that such land or interest therein be sold, and the Governor may execute a proper deed conveying all the State's rights, title and interest in such land. It shall be the duty of the Commission to determine the fair and reasonable value of the State's interest in such land and to advise the Governor thereof. All money derived from such sales shall be deposited in the State Treasury to the credit of the State Highway Fund. Provided further, that where right-of-way property owned by the State was acquired by a city or county and the State Highway Commission determines that said right-of-way property should be sold, such property shall be sold with the following priorities:

(1) To abutting or adjoining landowners;

(2) To original grantors, heirs or assigns of the original tract from whence the right-of-way was conveyed; or

(3) To the general public.

Notice of said sale shall be advertised at least twenty days before the day of sale by having notice thereof published in the English language once a week for three consecutive weeks preceding such sale in a newspaper in the county in which the real estate is located. Such sale shall be made on a sealed bid basis, and said land shall not be sold for less than the value recommended by the State Highway Commission as provided above.

Upon recommendation of the State Highway Commission, the Governor may execute a proper deed exchanging any such real property, or interest therein, either as a whole or part consideration, for any other real property, or interest therein, needed by the State for highway purposes.

Provided further, that upon recommendation of the State Highway Commission the Governor may execute a proper deed relinquishing and conveying the State's right, title and interest in such real property as follows:

(a) If title to the State was acquired by donation, convey to the grantor, his heirs or assigns; or if acquired by purchase by a county or city, convey to the county or city, or to the grantor, his heirs or assigns at the request of the county or city.

(b) If the rights and interests conveyed to the State consist only of the right to use such property, and title is not held by the State, convey the State's rights and interests to the owner of the fee in said property.

(c) If title or any interest in such property was acquired and held by a county or city in its own name for use by the State, quit claim to the county or city any interests of the State which might accrue from the State's use of the property; or if there is no record title to such property, quit claim the State's interests, which might accrue from its use of the property, to the county or city wherein such land is located, or to abutting property owners at the request of the county or city.

(d) Quit claim the State's title, rights and interest as necessary to comply with reversionary clauses contained in instruments by which the State's title, rights or interests were acquired.

Sec. 2. In all cases where there is an ambiguity or an error in any instrument by which title to, or any right or interest in, any real property is or has been conveyed to the State of Texas for highway right-of-way purposes because the metes and bounds description of said property is incomplete or incorrect, or for any other reason, and such ambiguity or error is of sufficient consequence to raise doubt as to the location or extent of the property conveyed thereby, or results in the acquisition of land or an interest in land not intended to be included therein and not needed for highway purposes, the Governor of this State, upon receipt of a recommendation from the State Highway Commission that he so do, shall execute and deliver, in the name of the State of Texas, a quit claim deed, correction deed or other conveyance deemed necessary to rectify and resolve any such ambiguity or error.

Rights of public utilities

Sec. 4. Whenever any real property owned by the State and sold and conveyed hereunder is being used by a public utility or common carrier having right of eminent domain for right-of-way and easement purposes the sale, conveyance and surrender of possession herein provided for shall be and remain in all things subject to the right and continued use of such public utility or common carrier.

Approval of transfers; rights of way not infringed; expenses

Sec. 5. The Attorney General shall approve all transfers and conveyances under this Act, and in no event shall the right of the State of Texas to full and exclusive right of possession of all retained rights-of-way be infringed or lessened in any manner thereby. All expenses of the State Highway Department incurred under any of these provisions, including the cost of advertising all sales made hereunder, shall be borne by the grantee in the deeds issued hereunder and payment of such expenses shall be a condition precedent to the delivery of such deeds.

Tax exemption of land used for road purposes

Sec. 6. In the event any public road or State highway is located on land in which the fee simple title is not vested in the State or the county wherein such road is located, such land so dedicated and used for such road purpose shall not be assessed for ad valorem taxation, or the fee simple owner required to pay ad valorem taxes thereon for any purpose so long as same is used for such road purpose. It shall be the duty of the Tax Assessor whenever his attention is called thereto by the fee simple owner of lands so used for public road or State highway purposes to note on the assessment sheet the amount of land so used. As amended Acts 1953, 53rd Leg., p. 795, ch. 323, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the Act of 1953 repealed conflicting laws and parts of laws. Section 3 provided that partial invalidity should not affect the remainder of the Act.

1A. CONSTRUCTION AND MAINTENANCE

Art. 6674u. Barricades and warning signs; tampering with or disregarding

Section 1. The following words when used in this Act shall for the purpose of this Act have the meanings respectively ascribed to them in this section as follows:

"Barricade." Every barrier, obstruction, or block placed upon or across any road, street or highway of this State by the State Highway Department, or any political subdivision of the State, or by any contractor or sub-contractor doing road, street or highway construction or repair work on said road, street or highway under or by authority of the State Highway Department or any political subdivision of the State, for the purpose of obstructing and preventing the passage of motor vehicles over such street, road or highway during the period of construction or repair to said street, road or highway.

"Warning Sign." Every sign, signal, marking, and device erected or placed upon any street, road or highway barricade, or erected or placed upon any street, road or highway which is under construction or being repaired in any way by the State Highway Department or any political subdivision of the State, or any contractor or sub-contractor doing road, street or highway construction or repair work, for the purpose of regulating, warning or guiding motor vehicular traffic or otherwise stating the conditions under which traffic by motor vehicle may be had upon such street, road or highway. A warning sign shall include, but shall not be limited to, a flagman placed upon any street, road or highway by the State Highway Department or any political subdivision of the State or by any contractor or sub-contractor for the purpose of directing traffic around or upon such street, road or highway as is under construction or in the process of being repaired.

Sec. 2. It shall be unlawful for any person to in any way tamper with, move, damage or destroy any barricade placed upon any road, street or highway by the State Highway Department or any political subdivision of the State, or by any contractor or sub-contractor doing road, street or highway construction or repair work under or by authority of the State Highway Department or any political subdivision of the State; or for any person to disobey the instructions, signals, warnings

or markings of any warning sign placed upon any street, road or highway barricade or placed upon any street, road or highway under construction or being repaired under the provisions and authority of this Act, unless at the time otherwise directed by a police officer. Provided, however, the provisions of this Act shall not apply to employees of the State Highway Department or any political subdivision of the State, or any contractor or sub-contractor or other person whose proper and lawful duties make it necessary for them to go beyond or around any barricade and to enter upon any portion of a street, road or highway which is under construction or in the process of being repaired.

Sec. 3. Any person who shall violate any provision of this Act shall, upon conviction, be fined not less than One ($1.00) Dollar nor more than Two Hundred ($200.00) Dollars, and each and every violation shall constitute and be a separate offense.

Sec. 4. In case any section, sentence or clause of this Act shall be declared unconstitutional, invalid, null, void or inoperative, the other sections, sentences, and clauses shall nevertheless remain in full force and effect just as though the section, sentence or clause so declared unconstitutional, invalid, void, null or inoperative was not originally a part hereof. Acts 1953, 53rd Leg., p. 706, ch. 270.

Emergency. Effective June 4, 1953.

Title of Act:

An Act making it unlawful for any person to tamper with, damage, or destroy any barricade placed upon any street, road or highway; making it unlawful for any person to disobey the instructions, signals, markings or warnings of any warning sign or device placed upon any street, road or highway; defining certain terms; providing that this Act shall not be applicable to certain persons lawfully engaged in their duties; providing penalties for violation of this Act; providing a savings clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 706, ch. 270.

Art. 6674v. Turnpike projects

Construction, maintenance and operation authorized

Section 1. To facilitate vehicular traffic throughout the State, to promote the agricultural and industrial development of the State, to assist in effecting traffic safety, to provide for the construction of modern expressways, to provide better connections between highways of the State of Texas and the highway system of adjoining states, including cooperation between states, the Texas Turnpike Authority, hereinafter created, is hereby authorized and empowered to construct, maintain, repair and operate Turnpike Projects (as hereinafter defined), and to issue turnpike bonds of the Texas Turnpike Authority, payable solely from the revenues of such projects.

Sec. 2. Turnpike revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but such bonds shall be payable solely from the funds herein provided therefor from revenues. All such turnpike revenue bonds shall contain on the face thereof a statement to the effect that neither the State, the Turnpike Authority or any political subdivision of the State shall be obligated to pay the same or the interest thereon except from revenues of the particular project for which they are issued and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The Turnpike Authority shall not be authorized to incur financial obligations which cannot be serviced

from tolls or revenues realized from operating its projects as defined in this Act or from moneys provided by this Act.

Sec. 3. There is hereby created an authority to be known as the "Texas Turnpike Authority," hereinafter sometimes referred to as the "Authority." By and in its name the Authority may sue and be sued, and plead and be impleaded. The Authority is hereby constituted an agency of the State of Texas, and the exercise by the Authority of the powers conferred by this Act in the construction, operation, and maintenance of turnpike projects shall be deemed and held to be an essential governmental function of the State.

The Board of Directors of the Authority (hereinafter in this Act sometimes called the "Board") shall be composed of directors, who shall occupy, respectively, places on the Board to be designated as Places 1, 2, 3, 4, 5, 6, 7, 8, and 9. Directors occupying Places 1, 2, and 3 shall serve terms expiring on February 15, 1955. The Directors occupying Places 4, 5, and 6 shall serve terms expiring on February 15, 1957. The Directors occupying Places 7, 8, and 9 shall serve terms expiring on February 15, 1959. The Directors who will occupy Places 2, 3, 5, 6, 8 and 9 shall be appointed by the Governor, by and with the advice and consent of the Senate, and the successors in office of each such Director shall be appointed for a term of six (6) years by the Governor, by and with the consent of the Senate. Each Director appointed to fill Places 2, 3, 5, 6, 8, and 9 shall have been a resident of the State and of the County from which he shall have been appointed for a period of at least one (1) year prior to his appointment.

The members of the Texas State Highway Commission at the time this Act becomes effective are hereby made Directors of said Authority, and if for any reason said Texas State Highway Commission at such time because of vacancies is composed of less than three (3) members, then the person or persons appointed to fill such vacancies are hereby made Directors of said Authority. The Highway Commissioners serving terms expiring February 15, 1955, February 15, 1957, and February 15, 1959, and their successors in office, shall respectively and successively occupy Places 1, 4, and 7 on such Board. Each member of the Texas State Highway Commission shall serve ex-officio as a member of the Board of Directors of such Authority. All Directors shall serve until their successors have been duly appointed and qualified, and vacancies in unexpired terms shall be promptly filled by the Governor.

All members of the Board of Directors shall be eligible for reappointment. All Directors shall have equal status and all Directors shall have a vote. Each member of the Board before entering upon his duties shall take an oath as provided by Section 1 of Article XVI of the Constitution of the State of Texas.

The Board shall elect one of the Directors as chairman and another as vice chairman, and shall elect a secretary and treasurer who need not be a member of the Board. Six members of the Board shall constitute a quorum and the vote of a majority of the members present at any meeting shall be necessary for any action taken by the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

Before the issuance of any turnpike revenue bonds under the provisions of this Act, each Director shall execute a surety bond in the penal sum of Twenty-five Thousand Dollars ($25,000) and the secretary and treasurer shall execute a surety bond in the penal sum of Fifty Thousand

Dollars ($50,000), each surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the State of Texas as surety and to be approved by the Governor and filed in the office of the Secretary of State. The expense of such bonds shall be paid by the Authority.

Each appointed Director may be removed by the Governor for misfeasance, malfeasance or willful neglect of duty, but only after reasonable notice and public hearing unless the notice and public hearing are in writing expressly waived.

The members of the Authority shall not be entitled to any additional compensation for their services, but each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties. All expenses incurred in carrying out the provisions of this Act shall be payable solely from funds provided under the authority of this Act and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the authority of this Act.

The Legislature imposes on any Director, who may be a member of the State Highway Commission the extra duties required hereunder.

Definitions

Sec. 4. As used in this Act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Texas Turnpike Authority, created by Section 3 of this Act, or, if such Authority shall be abolished, the board, body, authority or commission succeeding to the principal functions thereof or to whom the powers given by this Act to the Authority shall be given by law.

(b) The terms "State Highway Commission" and "State Highway Department" shall mean the agency of the State having general jurisdiction over State highway construction, maintenance, and operation, and if the Commission presently performing such functions should be abolished, the board, commission or body succeeding to its principal functions.

(c) The word "Project" or the words "Turnpike Project" shall mean any express highway or turnpike which the Authority may at any time determine to construct under the provisions of this Act, including its facilities to relieve traffic congestion and to promote safety, and shall embrace all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations, and administration, storage and other buildings which the Authority may deem necessary for the operation of the Project, together with all property rights, easements and interests which may be acquired by the Authority for the construction or the operation of the Project; provided, that the location of a Project must before final designation, be approved by the State Highway Commission. Provided, however, any "Project" or "Turnpike Project" which the Authority may construct under the authority of this Act shall at all times be deemed a public highway within the meaning of Chapter 270, page 399, Acts, Fortieth Legislature, 1927, as amended, by Chapter 78, page 196, Forty-first Legislature, First Called Session, 1929, and Chapter 314, page 698, Acts, Forty-first Legislature, 1929, as amended by Chapter 277, page 480, Acts, Forty-second Legislature, 1931, as amended by Chapter 290, page 463, Acts, Forty-seventh Legislature, 1941,[1] and

to that end no motor bus company, common carrier motor carrier, specialized motor carrier, contract carrier or other motor vehicle operation for compensation and hire shall be conducted thereon except in accordance with the terms and provisions of Chapter 270, page 399, Acts, Fortieth Legislature, 1927, as amended by Chapter 78, page 196, Acts, Forty-first Legislature, First Called Session, 1929, and Chapter 314, page 698, Acts, Forty-first Legislature, 1929, as amended by Chapter 277, page 480, Acts, Forty-second Legislature, 1931, as amended by Chapter 290, page 463, Acts, Forty-seventh Legislature, 1941.

(d) The word "Cost" as applied to a turnpike project shall embrace the cost of construction, the cost of the acquisition of all land, right-of-ways, property rights, easements and interests acquired by the Authority for such construction, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for one (1) year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of constructing any such Project, administrative expense and such other expense as may be necessary or incident to the construction of the Project, the financing of such construction and the placing of the Project in operation. Any obligation or expense hereafter incurred by the State Highway Commission for and on behalf of the Authority for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a Project shall be regarded as a part of the cost of such Project and shall be reimbursed to the State Highway Department out of the proceeds of turnpike revenue bonds hereinafter authorized.

(e) The word "owner" shall include all individuals, co-partnerships, associations or corporations having any title or interest in any property, rights, easements and interests authorized to be acquired by this Act. The term shall comprehend the State, counties, cities, political subdivisions, districts and all public agencies.

(f) The word "highway" shall comprehend any road, highway, farm-to-market road, or street, whether under the supervision of the State, any county, any political subdivision or any city or town.

1 Articles 911a, 911b; Vernon's Ann.P.C. arts. 1690a, 1690b.

General Grant of Powers and Duties Imposed

Sec. 5. The Authority is hereby authorized, empowered, and it shall be its duty:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

(c) To sue and be sued in its own name, plead and be impleaded; provided, however, that any and all actions at law or in equity against the Authority shall be brought in the county where the cause of action arises, and if land is involved, including condemnation proceedings, suit shall be brought in the county where the land is situated;

(d) To construct, maintain, repair and operate Turnpike Projects as hereinabove defined at such locations within the State as may be determined by the Authority subject to approval as to location by the State Highway Commission; provided that the Authority shall have no power to fix, charge, or collect tolls for transit over any existing free public Highway;

(e) To issue turnpike revenue bonds of the Authority payable solely from revenues, including tolls pledged to such bonds, for the purpose of paying all or any part of the cost of a Turnpike Project. Turnpike bonds shall be issued for each separate project;

(f) To fix, revise, and adjust from time to time tolls for transit over each separate Turnpike Project;

(g) To acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this Act;

(h) To acquire in the name of the Authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in the manner hereinafter provided, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, right-of-ways, property rights, easements and interests, as it may deem necessary for carrying out the provisions of this Act; provided, however, that except for parks and playgrounds and except for any property which may have been theretofore acquired under restrictions and limitations requiring payment of compensation, no compensation shall be paid for public lands, parkways or reservations so taken; and that all public property damaged in carrying out the powers granted by this Act, shall be restored or repaired and placed in its original condition as nearly as practicable; provided further, that the governing body having charge of any such public property is hereby authorized to give its consent to the use of any such property for a Turnpike Project; provided, further, that all property or interest so acquired shall be described in such a manner so as to locate the boundary line of same with reference to lot and block lines and corners of all existing and recorded subdivision properties and to locate the boundary line of other property with reference to survey lines and corners.

(i) To designate the location, and establish, limit and control such points of ingress to and egress from, each Turnpike Project as may be necessary or desirable in the judgment of the Authority and the Texas Highway Department to insure the proper operation and maintenance of such Project, and to prohibit entrance to such Project from any point or points not so designated.

In all cases where county or other public roads are affected or severed, the Authority is hereby empowered and required to move and replace the same, with equal or better facilities; and all expenses and resulting damages, if any, shall be paid by the Authority.

(j) To make and enter into contracts and operating agreements with similar authorities or agencies of other states; to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act; and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgments, and to fix their compensation; provided, that all such expenses shall be payable solely from the proceeds of turnpike revenue bonds issued under the provisions of this Act or from revenues; and provided further that no compensation for employees of Authority shall exceed the salary schedule of the State Highway Department for comparable positions and services.

(k) To receive and accept grants for or in aid of the construction of any Turnpike Project, and to receive and accept aid or contributions from

any source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(*l*) To make and enforce rules and regulations not inconsistent with the provision of this Act for use of any such Project;

(m) All contracts of the Authority for the construction, improvement, repair, or maintenance of any turnpike project shall, in so far as applicable, be made and awarded under the same conditions, terms, requirements, and provisions as are now provided for with respect to contracts of the State Highway Department in Sections 8 and 9 of Chapter 186, pages 457, 458, Acts, Thirty-ninth Legislature, 1925, as amended by Chapter 103, page 286, Acts, Forty-third Legislature, First Called Session, 1933, and Sections 10 and 13 of Chapter 186, page 458, Acts, Thirty-ninth Legislature, 1925, codified as Articles 6674h, 6674i, 6674j, and 6674m, Vernon's Civil Statutes, and in the making and awarding of such contracts the Authority shall, in so far as applicable, be under the same duties and responsibilities with respect thereto as are now imposed upon the State Highway Department by the terms and provisions of the Statutes herein enumerated. It is hereby declared to be the intention of the Legislature that the provision of this paragraph shall be mandatory.

(n) Provided, however, that the Authority in this Act created, save and except for the region included within the boundaries of Dallas and Tarrant Counties of this State, shall not be empowered or authorized to process or commence plans for or the construction of any toll road or turnpike over the same route or parts thereof or between the same terminal or intervening cities or towns, or through any counties or regions served by a toll road corporation as hereinafter described, which could in any manner whatsoever be construed as a duplication of the services rendered by a toll road running in the same general directions over the same general route or part thereof or through the same regions or counties of the State which has been planned, commenced or constructed by a toll road corporation chartered prior to April 1, 1953, under the laws of this State which provides in its articles of incorporation, bylaws, or otherwise, that none of the net income or profits, whether realized or unrealized, shall ever inure to the benefit of or be distributed to any private shareholder or any other private person, association or corporation whatsoever, and that, after payment of all indebtedness for the acquisition, construction, maintenance and operation of such toll road, the title of all the assets of said toll road corporation shall be conveyed to the State of Texas or to the county or counties in which such toll road is situated; provided further, however, that such toll road corporation commence the construction of such toll road within a period of eighteen (18) months from the effective date of this Act.

(*o*) To do all acts and things necessary or appropriate to carry out the powers expressly granted in this Act.

Incidental Powers

Sec. 6. The Authority shall have authority to construct grade separations at intersections of Turnpike Projects with railroads and with highways, and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of railroads or such highways shall be paid by the Authority as a part of the cost of such Turnpike Project.

If the Authority shall find it necessary to change the location of any portion of any highway, it shall cause the same to be reconstructed at such location as the Authority and the Texas Highway Department shall deem most favorable and of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the Authority as a part of the cost of such Turnpike Project. No Project shall be instituted for the purpose of being substituted for or taking the place of an existing highway. Each Project shall be essentially an additional facility.

In addition to the foregoing powers, the Authority and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or appropriate for the purpose of this Act, and such entry shall not be deemed a trespass, nor shall any entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The Authority shall make reimbursement for any actual damages resulting to such lands, waters and premises as a result of such activities.

The Authority also shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "Public Utility Facilities") of any public utility, railroad or pipeline company, or of any person, in, on, along, over or under the Turnpike Project. Whenever the Authority shall determine that it is necessary that any Public Utility Facilities which now are, or hereafter may be, located in, on, along, over or under the Turnpike Project should be relocated in such Project, or should be removed from such Project, or should be carried along or across the Turnpike by grade separation, the owner or operator of such facilities shall relocate or remove the same in accordance with the order of the Authority; provided, however, that the cost and expenses of such relocation or removal or grade separation, including the cost of installing such facilities in a new location or new locations, and the cost of any land, or any rights, or interest in lands, and any other rights, acquired to accomplish such relocation or removal, and the cost of maintenance of grade separation structures, shall be paid by the Authority as a part of the cost of or cost of operating such Turnpike Project. In case of any such relocation or removal of facilities, the owners or operators of the same, their successors or assigns, may use and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as they had the right to maintain and operate such facilities in their former location or locations. Provided, however, notwithstanding anything contained herein to the contrary, the provisions of House Bill No. 393, Acts, Fifty-first Legislature, 1949, Chapter 228, Page 427,[1] shall apply to the erection, construction, maintenance, and operation of lines and poles owned by corporations organized under the Electric Cooperative Corporation Act of this State,[2] and all other corporations (including River Authorities created by the Legislature of this State) engaged in either the generation, transmission, or distribution of electric energy in Texas and whose operations are subject to the Judicial and Legislative processes of this State, over, under, across, upon and along any Project constructed by the Authority; provided, however, that the Authority shall have the same powers and duties as are delegated the State Highway Commission under the provisions of said House Bill No. 393, Acts,

Fifty-first Legislature, 1949, Chapter 228, Page 427, and further provided that notwithstanding anything contained herein to the contrary, the existing laws of the State of Texas applicable to the use of public roads, streets and waters of the State by telephone and telegraph corporations shall apply also to the erection, construction, maintenance, location and operation of lines, poles and other fixtures by telegraph and telephone corporations over, under, across, upon and along any Project constructed by the Authority.

The State of Texas hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the Authority to be necessary for the construction or operation of any Turnpike Project. Provided, however, that nothing herein shall be construed as depriving the School Land Board of authority to execute leases in the manner authorized by law for the development of oil, gas and other minerals on State-owned lands adjoining any such Project, or in tidewater limits, and to this end such leases may provide for directional drilling from such adjoining land and tidewater area.

1 Article 1436a.
2 Article 1528b.

Purchase of Property

Sec. 7. The Authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, any land, property rights, right-of-ways, franchises, easements and other interests in lands as it may deem necessary for the construction or operation of any Turnpike Project upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the Authority and the owner thereof, and to take title thereto in the name of the Authority.

The governing body of every county, city, town, political subdivision or public agency is authorized without any form of advertisement to make conveyance of title or rights and easements to any property needed by the Authority to effect its purposes in connection with the construction or operation of a Turnpike Project.

Condemnation of Property

Sec. 8. Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated, or is absent, unknown or unable to convey valid title, the Authority is hereby authorized, and empowered to acquire, by the exercise of the power of condemnation and in accordance with and subject to the provisions of any and all existing laws and statutes applicable to the exercise of the power of condemnation of property for public use, any land, property rights, right-of-ways, franchises, easements or other property deemed necessary or appropriate for the construction or the efficient operation of any Turnpike Project or necessary to the restoration of, public or private property damaged or destroyed; provided, however, the Authority may not condemn any land except such as will be necessary for road and right-of-way purposes. The road and right-of-way purposes for which the Authority may condemn land, shall include the land necessary for access, approach, and interchange roads, but shall not include any supplemental facility for other purposes. Such supplemental facilities must be constructed upon land acquired by purchase and not by condemnation. In any condemnation proceedings the Court having jurisdiction of the suit, action or proceeding, may make such orders as may be just to the Authority and to the owners of the property to be condemned

and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the State or the Authority except such as may be paid from the funds provided under the authority of this Act.

In all cases where property of an owner is severed by the Turnpike Project, the Authority shall pay the value of the property acquired and the severance damages, to the property remaining in the owner. Such severance damages shall include those arising from the inaccessibility of one tract to the other. The Authority shall provide and maintain at all times for the owner of such severed land, his employees and representatives, without charge, a passageway over or under the project, provided however that the Authority shall not be required to furnish such a passageway (1) if the owner waives such requirement, or (2) if the original tract or ownership involved is less than eighty acres. The Authority is hereby authorized and empowered to negotiate for, and purchase the land or either tract of the land severed, provided satisfactory terms may be agreed upon with the owner. All severed land acquired by the Authority, as herein provided, shall be sold and disposed of by the Authority within a period of two years after its acquisition.

In addition to any other power granted in this Act, the powers and procedure granted to and available to the State Highway Commission for acquisition of property, are likewise granted to and made available to the Authority, subject to the provisions of this Act.

Turnpike Revenue Bonds

Sec. 9. The Authority is hereby authorized to provide by resolution, from time to time, for the issuance of turnpike revenue bonds of the Authority for the purpose of paying all or any part of the cost of a Turnpike Project. Each Project shall be financed and built by a separate issue of bonds. The proceeds of no issue of bonds shall be divided between or among two or more projects. The cost of each Project shall be determined and set up as a separate project and undertaking. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment and from the revenues of the particular project for which such bonds were issued. The bonds of each issue shall be dated, shall bear interest at such rate or rates, not exceeding five (5) per centum per annum, shall mature at such time or times, not exceeding forty (40) years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds.

The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The bonds shall be signed by the Chairman of the Authority, or shall bear his facsimile signature, and the official seal of the Authority or a facsimile thereof shall be impressed or printed thereon, and attested by the Secretary and Treasurer of the Authority. Any coupons attached thereto shall bear the facsimile signature of the Chairman of the Authority. In cases where any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons

shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery. All bonds issued under the provisions of this Act shall have and are hereby declared to have all the qualities and incidents of, and are hereby declared to be and are constituted negotiable instruments under the negotiable instruments law of the State. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. If the duty of such reconversion is imposed on the Trustee in a Trust Agreement as authorized under Section 11, the substituted coupon bonds need not be reapproved by the Attorney General of Texas, and they shall remain incontestable. The Authority may sell such bonds in such manner, either at public or at private sale, and for such price, as it may determine to be for the best interests of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than five (5) per centum per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the payment of the Cost of the Turnpike Project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such Cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the Cost of the Turnpike Project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable or definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide without reapproval by the Attorney General, for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

Before the Authority may deliver any bonds issued hereunder to the purchaser thereof, the proceedings authorizing their issuance and securing the bonds shall be presented to the Attorney General of Texas for examination and approval. If the bonds shall have been duly authorized in accordance with the Constitution and laws of the State and

constitute valid and binding obligations of the Authority, according to their tenor and effect, and proper charges against the revenues pledged to their payment, he shall approve the bonds. Without such approval the bonds cannot be so issued and delivered to the purchaser. The bonds when approved shall be registered by the Comptroller of Public Accounts of the State of Texas. After such approval and registration the bonds shall be incontestable.

Turnpike Revenue Refunding Bonds

Sec. 10. The Authority is hereby authorized to provide by resolution for the issuance of turnpike revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding, issued on account of a Project, which shall have been issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements to the Turnpike Project in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this Act in so far as the same may be applicable. Within the discretion of the Authority the refunding bonds may be issued in exchange for outstanding bonds or may be sold and the proceeds used for the purpose of redeeming outstanding bonds.

Trust Agreement

Sec. 11. In the discretion of the Authority any bonds issued under the provisions of this Act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Any such trust agreement may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage any Turnpike Project or any part thereof.

No trust agreement shall evidence a pledge of the revenues of any Project to any other purpose than for the payment of the cost of maintaining, repairing and operating the Turnpike Project and the principal of and interest on such bonds as the same shall become due and payable and to create and maintain reserves for such purposes, as prescribed in Section 12 hereof. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the Turnpike Project in connection with which such bonds shall have been authorized, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such Turnpike Project. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is

customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any such trust agreement may contain such provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the Turnpike Project.

Revenues

Sec. 12. The Authority is hereby authorized to fix, revise, charge and collect tolls for the use of each Turnpike Project and the different parts or sections thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon gas stations, garages, stores, hotels, restaurants, or for any other purpose except for tracks for railroad or railway use, and except for use by telephone, telegraph, electric light or power lines and to fix the terms, conditions, rents and rates of charges for such use. Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the Turnpike Project in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such Turnpike Project and (b) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the State. The tolls and all other revenues derived from the Turnpike Project in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of (1) the interest upon such bonds as such interest shall fall due, (2) the principal of such bonds as the same shall fall due, (3) the necessary charges of paying agents for paying principal and interest, and (4) the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement.

The revenues and disbursements for and on behalf of each Project shall be kept separately. No revenues of one Project shall be used to pay cost of another Project. The moneys in the sinking fund, less such reserve as may be provided in such resolution or trust agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable.

Trust Funds

Sec. 13. All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this Act. The resolution authorizing the issuance of bonds of any issue or the trust agreement securing such bonds shall provide that any officer

to whom, or any bank or trust company to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purpose thereof, subject to such regulations as this Act and such resolution or trust agreement may provide.

Remedies

Sec. 14. Any holder of bonds issued under the provisions of this Act or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this Act or by such trust agreement, or resolution to be performed by the Authority or by any officer thereof, including the charging and collecting of tolls.

Exemption from Taxation

Sec. 15. The exercise of the powers granted by this Act will be in all respects for the benefit of the people of the State, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of Turnpike Projects by the Authority will constitute the performance of essential governmental functions, the Authority will not be required to pay any taxes or assessments upon any Turnpike Project or any property acquired or used by the Authority under the provisions of this Act or upon the income therefrom, and the bonds issued under the provisions of this Act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the State.

Eligibility of Bonds

Sec. 16. All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, of any and all public funds of cities, towns, villages, counties, school districts and other political subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value or to the extent of their market value, whichever value is the smaller, when accompanied by all unmatured coupons appurtenant thereto.

Dallas-Fort Worth Turnpike Project

Sec. 17. The Authority is expressly authorized and required to take immediate steps to process the construction of a Project to be known as "Dallas-Fort Worth Turnpike," and to construct, maintain, repair and operate such Turnpike Project between the cities of Dallas and Fort Worth. The project shall extend from a convenient connecting point in the principal East-West highway artery through the City of Dallas in Dallas County, to a convenient connecting point in the principal East-West highway artery through the City of Fort Worth in Tarrant

County, along a route to be approved by the Highway Commission of the State of Texas, to be situated for the greater part of its length between United States Highway No. 80 and State Highway No. 183, and shall embrace all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations and administration, storage and other buildings which the Authority may deem necessary for the operation of the Project, together with all property rights, easements and interests which may be acquired by the Authority for the construction or the operation of the Project.

Existing toll roads as part of free highway system

Sec. 18. The Authority hereby created is authorized, empowered and directed to receive and accept for the State of Texas as a part of the free highway system thereof any toll road constructed and operated by a toll road corporation as described in Section 5, subsection (n), hereof, subject to the following conditions and requirements:

"1. That at the time of such acceptance such toll road shall be free and clear of any and all encumbrances.

"2. That no compensation whatsoever shall be required to be paid therefor by the State of Texas.

"3. That at the time of such acceptance by the Authority such toll road shall be in good condition and repair to the satisfaction of the State Highway Commission.

"4. That such toll road shall have been constructed and maintained in such a manner as to be equal or superior to the standards of the State Highway Commission.

"5. That in letting the contracts for the construction and maintenance of said road such toll road corporation shall have followed the methods and procedures as are used by the State Highway Commission of Texas in such matters.

"A toll road corporation as described in Section 5, subsection (n) hereof, shall be obligated to make an irrevocable gift of all of its assets to the State of Texas and shall irrevocably bind itself to use all of its net income or profits to retire the indebtedness created for the acquisition, construction, maintenance and operation of such road, and which corporation shall at the time of the acquisition of any real property execute such instruments as may be necessary to convey or transfer such real property to the State of Texas, which instruments shall be deposited in escrow with any banking corporation chartered under the laws of Texas or of the United States with an escrow agreement which shall authorize and empower said escrow agent to deliver such instruments of conveyance and transfer to the Authority herein created when the requirements and conditions set forth above have been met and complied with. The authority herein created is hereby authorized, empowered and directed on behalf of the State of Texas to execute such instruments as may be necessary to complete such escrow agreement.

"The equitable, beneficial and superior title to the property belonging to a corporation described in Section 5, subsection (n) hereof, which is subject to an escrow agreement provided herein shall be vested at all times in the State of Texas and shall constitute public property used for public purposes, subject only to any liens or encumbrances created against said property by such corporation to finance the acquisition, construction, maintenance or operation of such road, and the board of directors of such corporation is hereby authorized and empowered to

pledge, mortgage or otherwise encumber any of its properties or revenues, whether realized or unrealized, for such purposes, and the authorities herein created shall be required to execute such instruments of consent and subordination as may be required to give and grant such corporation such rights to pledge, mortgage or otherwise encumber its property for the purposes above set forth and, provided further, that neither the State of Texas nor any of its political subdivisions nor the Authority herein created shall ever be liable in any way for any indebtedness created by such a corporation or for any claim, demand, or obligation of any kind which may arise or be asserted against such a corporation, and that all bonds or other evidences of indebtedness of such corporation shall contain a statement to that effect on the fact thereof."

Cessation of Tolls

Sec. 19. When all bonds issued under the provisions of this Act in connection with any Turnpike Project, and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof or for the redemption thereof, shall have been set aside in trust for the benefit of the bondholders, such Project, if then in good condition and repair to the satisfaction of the State Highway Commission, shall become part of the State Highway Commission and shall thereafter be maintained by the State Highway Commission, free of tolls. But if at the time such bonds are so paid or the redemption thereof so provided for, the State Highway Commission determines that the Project is not in such state of repair as justifies its acceptance as a part of the State Highway System, the Authority shall continue to operate the Project as a toll facility, and shall continue the tolls then in effect or revise the tolls so as to provide money sufficient to assure payment of the expense of maintenance and operation, and the making of such repairs and replacements as are necessary to meet the minimum requirements of the State Highway Commission within the shortest practicable time. Any money remaining to the credit of such Project after retirement of all of the bonds issued on its account—shall, upon acceptance of the Project by the State Highway Commission, be delivered by the Authority to the State Highway Commission and shall be held by it as a special reserve fund to assure continued maintenance of the facilities comprising the Project, to be administered under rules and regulations to be prescribed by the State Highway Commission. When the bonds issued to finance a Turnpike Project are fully paid and the Turnpike Project has been accepted by the State Highway Commission as provided for in this Section 19, within one (1) year from date of acceptance of said Project, including all the installations thereon, excepting only the roadbed and highway sections, the State Highway Department shall advertise for public sale all of said installations which may have been acquired as provided in Section 12 hereof, and shall receive sealed bids therefor. It may reject any or all bids but shall dispose of all such properties within two (2) years after accepting title to the Turnpike Project.

Preliminary Expenses

Sec. 20. The State Highway Commission is hereby authorized in its discretion, if and to the extent requested by the Authority, to expend out of any funds available for the purpose, such moneys as may be necessary for the study of a Project and to use its engineering and other forces, including consulting engineers and traffic engineers, for the purpose of effecting such study and to pay for such additional engineering

and traffic and other expert studies as it may deem expedient and all such expenses incurred by the State Highway Commission prior to the issuance of turnpike revenue bonds under the provisions of this Act, shall be paid by the State Highway Commission and charged to such Project, and the State Highway Commission shall keep proper records and accounts showing each amount so charged. Upon the sale of turnpike revenue bonds for any such project, the funds so expended by the State Highway Commission in connection with such Project shall be reimbursed to the State Highway Commission from the proceeds of such bonds.

Miscellaneous

Sec. 21. Each Turnpike Project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Authority. Each such Project shall also be policed and operated by such force of police, toll-takers and other operating employees as the Authority may in its discretion employ. Within its discretion the Authority may make arrangements with the Department of Public Safety for the services of police officers of that Agency.

All private property damaged or destroyed in carrying out the powers granted by this Act shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this Act.

All counties, cities, villages and other political subdivisions and all public agencies and commissions of the State of Texas, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request, upon such terms and conditions as the proper authorities of such counties, cities, villages, other political subdivisions or public agencies and commissions of the State may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or appropriate to the effectuation of the authorized purposes of the Authority, including highways and other real property already devoted to public use.

An action by the Authority may be evidenced in any legal manner, including a resolution adopted by its Board of Directors.

Any member, agent or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly, in any contract with the Authority or in the sale of any property, either real or personal, to the Authority, shall be punished by a fine of not more than One Thousand Dollars ($1000).

Any person who uses any turnpike project and fails or refuses to pay the toll provided therefor, shall be punished by a fine of not more than One Hundred Dollars ($100) and in addition thereto the Authority shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof, until the amount of such toll and all charges in connection therewith shall have been paid.

On or before the thirtieth day of January in each year the Authority shall make an annual report of its activities for the preceding calendar year to the Governor and to the Legislature. In making such report, each project shall be listed and reported separately. Each such report shall set forth a complete operating and financial statement covering its

operations for each project during the year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operation of the Turnpike Project.

Additional Method

Sec. 22. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of turnpike revenue bonds or turnpike revenue refunding bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds.

Act Liberally Construed

Sec. 23. This Act, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof. Acts 1953, 53rd Leg., p. 967, ch. 410.

Effective 90 days after May 27, 1953, date of adjournment.

Section 24 of the Act of 1953 declared the provisions of the Act severable, and provided that partial invalidity should not affect the remainder of the Act and its application to other persons or circumstances. Section 25 provided that the Act should take precedence to the extent other laws were in conflict or inconsistent.

2. REGULATION OF VEHICLES

Art. 6675a—2. Registration

Every owner of a motor vehicle, trailer or semi-trailer used or to be used upon the public highways of this State shall apply each year to the State Highway Department through the County Tax Collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current calendar year or unexpired portion thereof; provided that where a public highway separates lands under the dominion or control of the owner, the operation of a motor vehicle by such owner, his agents or employees, across such highway shall not constitute a use of such motor vehicle upon a public highway of this State. Owners of farm tractors, farm trailers, farm semi-trailers, implements of husbandry, and machinery used solely for the purpose of drilling water wells regardless of whether it is a unit in itself or is a unit mounted on a conventional vehicle or chassis, operated or moved temporarily upon the highways shall not be required to register such farm tractors, farm trailers, farm semi-trailers, implements of husbandry, and well-drilling machinery; provided, however, that such farm trailers and farm semi-trailers are operated in conformity with all provisions of the law save and except the requirements as to registration and license; and providing further, that the exemptions in this section shall not apply to any farm trailer or farm semi-trailer when the gross weight exceeds twelve thousand (12,000) pounds; provided, that no farm trailer or farm semi-trailer with metal tires shall be permitted to operate at a speed in excess of fifteen (15) miles per hour; and further provided, that the exemptions in this section shall not apply to any farm trailer or farm semi-trailer with steel tires of a width less than three (3) inches operating in excess of fifteen (15) miles per hour; and pro-

viding further, that the exemption in this section shall not apply to any farm trailer or farm semi-trailer when the same is used for hire; provided, however, it shall be unlawful to operate any trailer or semi-trailer at night without a rear red light or red reflectors. As amended Acts 1953, 53rd Leg., p. 798, ch. 324, § 1.

Emergency. Effective June 8, 1953.

Section 2 of the Act of 1953 amended Vernon's Ann.P.C. art. 827a, § 3, subd. (a). Section 3 repealed conflicting laws and parts of laws to the extent of the conflict.

Art. 6687b. Drivers', chauffeurs', and commercial operators' licenses; accident reports

Sec. 5. **Special restrictions on drivers of school buses and public or common carrier motor vehicles**

(a) No person who is under the age of seventeen (17) years shall drive any motor vehicle while in use as a school bus for the transportation of pupils to or from school, nor until he has been licensed as a chauffeur.

(b) No person who is under the age of twenty-one (21) years shall drive any motor vehicle while in use as a public or common carrier of persons, nor until he has been licensed as a chauffeur. As amended Acts 1953, 53rd Leg., p. 843, ch. 341, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Sec. 5a. **Junior college buses; qualifications of drivers**

Persons eighteen (18) years of age or older who have been licensed as chauffeurs by the Department of Public Safety shall be authorized to drive any motor vehicle while in use as a school bus for the transportation of junior college students and employees to and from school or official school activities; providing further that such school bus operated by a junior college may also transport students of any public school where convenient, providing that wherever students of any local public school district are transported to and from school on any bus operated by a junior college, and the driver of said bus is under twenty-one (21) years of age, in that event the selection of any person to drive or operate such school bus must be approved by the principal of the local public school whose students are being so transported. All statutes now prohibiting the operation of such motor vehicles for the transportation of junior college students and employees by said persons eighteen (18) years of age or over, are suspended in so far as junior colleges are concerned. Provided, however, that this Act will not apply to drivers of vehicles operated under permit or certificate issued by the Railroad Commission of Texas. Added Acts 1953, 53rd Leg., p. 751, ch. 299, § 1.

Emergency. Effective June 5, 1953.

Sec. 15a. **Unexpended balance of fund; use for plant for Department of Public Safety**

The unexpended balance remaining in the Operator's and Chauffeur's License Fund on August 31, 1952, and any unexpended balance in excess of Twenty-five Thousand ($25,000.00) Dollars in that Fund on August 31, 1953, may be used for constructing and equipping a physical plant for the Texas Department of Public Safety, as authorized in Chapter 475, Acts

of the 51st Legislature, Regular Session, 1949.[1] All other moneys in the Operator's and Chauffeur's License Fund shall be used for the purposes stated in Section 15 of this Act, and any portion of the moneys herein authorized to be used for constructing and equipping a physical plant which is not actually used for such purpose shall be available for the purposes stated in Section 15. Added Acts 1953, 53rd Leg., p. 676, ch. 257, § 1.

1 Article 4413(29a).

Emergency. Effective June 4, 1953.

Section 2 of Acts 1953, 53rd Leg., p. 676, ch. 257, read as follows: "For the purpose of carrying out the provisions of Chapter 475, Acts of the 51st Legislature, Regular Session, 1949, there is hereby appropriated to the Texas Department of Public Safety all funds remaining in the Operator's and Chauffeur's License Fund on August 31, 1952, and all funds in excess of Twenty-five Thousand ($25,000.00) Dollars remaining in such Fund on August 31, 1953. All disbursements hereunder shall be by warrant issued by the Comptroller upon vouchers drawn by the Chairman of the Public Safety Commission, or the Director, and such voucher shall be accompanied by itemized sworn statements of the expenditures for which they are issued."

Art. 6701a. Permits for heavy trucks on highways

Section 1. When any person, firm or corporation shall desire to operate over a state highway super-heavy or over-size equipment for the transportation of such commodities as cannot be reasonably dismantled, where the gross weight or size exceeds the limits allowed by law to be transported over a state highway the State Highway Department may, upon application, issue a permit for the operation of said equipment with said commodities, when said State Highway Department is of the opinion that the same may be operated without material damage to the highway. Provided, however, that all cities and towns having a state highway within their limits shall designate to the State Highway Department the route within the city or town to be used by said equipment operating over the state highway. When so designated, the route shall be shown on all maps routing said equipment with said commodities by the State Highway Department. In the event a route is not so designated by a city or town, the State Highway Department shall determine the route on State Highways for the equipment with said commodities within cities or towns. No fee, permit or license shall be required by any city or town for movement of said super-heavy or over-size equipment on the route of a state highway designated by the State Highway Department, or on said special route designated by a city or town. As amended Acts 1953, 53rd Leg., p. 505, ch. 183, § 1.

Emergency. Effective May 19, 1953.

Art. 6701c—1. Commercial vehicles or truck-tractors; operation by other than owner

Definitions

Section 1. The following words and phrases, when used in this Act, shall, for the purpose of this Act, have the meanings respectively ascribed to them in this section, as follows:

"Vehicle". Every mechanical device, in, upon, or by which any person or property is or may be transported or drawn upon a public highway, including motor vehicles, commercial motor vehicles, truck-tractors, trailers, and semi-trailers, severally, as hereinafter defined, but excepting devices moved by human power or used exclusively upon stationary rails or tracks.

"Commercial Motor Vehicle". Every motor vehicle, other than a motorcycle or passenger car, designed or used primarily for the transportation of property, including any passenger car which has been reconstructed so as to be used, and which is being used, primarily for delivery purposes, with the exception of passenger cars used in the delivery of the United States mails.

"Truck-tractor". Every motor vehicle designed or used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Filing copy of lease, memorandum or agreement; copies carried in cab; display; exceptions to application of act

Sec. 2. No commercial motor vehicle nor any truck-tractor shall be operated over any public highway of this State by any person other than the registered owner thereof, or his agent, servant or employee under the supervision, direction, and control of such registered owner unless such other person under whose supervision, direction and control said motor vehicle or truck-tractor is operated shall have cause to be filed with the Department of Public Safety an executed copy of the lease, memorandum, or agreement under which such commercial motor vehicle or truck-tractor is being operated and shall have in the cab thereof a true copy of the lease, memorandum or agreement together with a true copy of the letter of transmittal to the Department of Public Safety, signed by the owner or an official of the company, showing the date that the lease, memorandum or agreement covering any such motor vehicle or truck-tractor was posted or otherwise transmitted to the Department of Public Safety at Austin, Texas, and such lease, memorandum or agreement and letter shall be displayed to any officer authorized to enforce this Act, upon request by such officer. For the purposes of this Act, a lease, memorandum or agreement shall be considered as filed with the Department of Public Safety by depositing an executed copy of such lease, memorandum or agreement in the United States mail, properly addressed to the Department of Public Safety at Austin, Texas. Provided, however, that this Act shall not apply to any vehicle lawfully registered as a farm vehicle under the provisions of Acts of the 41st Legislature, 2nd Called Session, 1929, Chapter 88, page 172, Section 6a, as amended by subsequent session of the Legislature and as codified as Article 6675a—6a, Revised Civil Statutes of Texas. And provided further, that this Act shall not apply to motor vehicles, commercial motor vehicles, and truck-tractors used exclusively to transport sand, gravel, dirt, caliche, shell, cement, ready-mix concrete, asphalt rock, and aggregate; nor shall this Act apply to such vehicles as are used exclusively in the transportation of sand, gravel, dirt, caliche, shell, cement, ready-mix concrete, asphalt rock, aggregate, and other similar road-building substances ordinarily transported in bulk when such substances are being transported to or from the job site of any construction project being performed for or on behalf of the Federal Government, the State of Texas or any political subdivision thereof, or to or from the construction site of any national defense project, airport and roadways leading thereto, or to or from the construction site of any road, highway, and expressway; nor shall the requirements of this Act apply to any motor vehicle or truck-tractor which is used exclusively in the transportation of liquefied petroleum gases when such vehicle is being operated in accordance with the provisions of Chapter 363, page 612, Acts 52nd Legislature, 1951, and the provisions of Article 6053, Revised Civil Statutes of Texas, 1925, as amended, and the rules and regulations adopted by the Railroad Com-

mission of Texas governing the handling and odorization of liquefied petroleum gases and specifications for the design, construction and installation of equipment used in the transportation, storage, dispensing, and consumption of liquefied petroleum gases. And provided further, that this Act shall not apply to commercial motor vehicles and truck-tractors leased or rented:

(a) without drivers from an individual, person, co-partnership, association or corporation whose principal business is the leasing or renting of motor vehicle equipment without drivers for compensation;

(b) and who maintain an established place of business and whose lease or rental contracts require the motor vehicle equipment to return to the established place of business;

(c) and who have dated and filed within ten (10) days of January 1st, April 1st, July 1st, and October 1st of each year, with the Department of Public Safety, a complete list giving a full description of all such commercial motor vehicles and truck-tractors owned by such individual, person, co-partnership, association or corporation, as of the date of the report, and available for lease or rent without drivers for compensation. After the first complete list is filed under the terms hereof, the subsequent quarterly filing of a list of the additional equipment so owned and available, as well as deletions from former lists filed, shall be sufficient.

If for any reason any one or more of the foregoing exceptions contained in this Act is unconstitutional or invalid, it is hereby declared to be the intention of the Legislature to enact, and it does here now enact and pass, this Act without any such exception, one or more, and if any such exception, one or more, be invalid, then such exception alone shall fall and be held for nought, and the remainder of the Act shall be and remain unimpaired, and it is so enacted.

Subsequent lease, memorandum or agreement covering same vehicle

Sec. 3. When any such lease, memorandum, or agreement, as required by Section 2 of this Act, shall have been filed with the Department of Public Safety covering the operation of any commercial motor vehicle or truck-tractor, no further such lease, memorandum, or agreement covering the operation of the same commercial motor vehicle or truck-tractor may be accepted by the Department of Public Safety for filing until the existing lease, memorandum, or agreement shall have expired in accordance with its own terms or there shall have been filed with the Department of Public Safety a full release thereof.

Contents of lease, memorandum or agreement; information confidential

Sec. 4. Such lease, memorandum, or agreement as required by Section 2 of this Act shall contain, but shall not be limited to, the name and address of the registered owner of such commercial motor vehicle or truck-tractor, the name and address of the person other than the owner, under whose supervision, direction and control the same is being operated, the actual consideration, the term, and the commodity or commodities to be transported under such lease, memorandum, or agreement and a full description of the commercial motor vehicle or vehicles or truck-tractors covered thereby, and shall state that such commercial motor vehicle or vehicles or truck-tractors are not the subject of any other such lease, memorandum, or agreement which shall have been filed with the Department of Public Safety in accordance with Section 2 of this Act and which is still in effect.

All information contained in any lease, memorandum, or agreement filed with the Department of Public Safety as required by Section 2 of this Act shall, with the exception of the name and address of the registered owner, the name and address of the person other than the owner, under whose supervision, direction and control the same is being operated, and a full description of the commercial motor vehicle or truck-tractor covered thereby, shall be for the confidential use of the Department of Public Safety; except, however, that the Department of Public Safety may make such information available to the law enforcement officers of the Interstate Commerce Commission, and may further use such information in any judicial proceeding brought in the name of the State of Texas.

Filing fee

Sec. 5. Any filing of a lease, memorandum, or agreement, or of a release thereof, as provided for in Section 2 and Section 3 of this Act, shall be accompanied by a fee of One ($1.00) Dollar, which shall be deposited in the Treasury of the State of Texas to the credit of the Operator's and Chauffeur's License Fund to be used by the Department of Public Safety for the purpose of enforcement of this Act.

Sign or placard

Sec. 6. No commercial motor vehicle or truck-tractor shall be operated over any public highway of this State when said vehicle is being operated by a person other than the registered owner or his agent, servant or employee under the supervision, direction, and control of such registered owner, unless there shall be affixed in a conspicuous place on each side thereof a sign or placard, in letters not less than two inches in height or less than one-fourth inches in width, showing the name and address of such person, firm or corporation under whose control, direction and supervision said vehicle is being operated, whether individually or through an agent, servant or employee, under the supervision, direction, and control of such person, firm or corporation other than the registered owner. Such sign or placard as is required by the provisions of this section to be affixed in a conspicuous place on each side of the vehicle need not be painted on such vehicle but may be placed on a durable placard, canvas or other material by painting, drawing, stenciling or otherwise, and in such event such placard or canvas or other material shall be securely affixed to each side of such vehicle.

No presumption of violation of other laws

Sec. 7. Compliance with the requirements of this Act shall not be construed as making a prima facie case of a bona fide lease covering a motor vehicle, nor shall compliance be construed as creating any presumption that the commercial motor vehicle or truck-tractor in question is not being operated in violation of the terms and provisions of the Acts of the 41st Legislature, 1929, Chapter 314, page 698, as amended by Acts of the 42nd Legislature, 1931, Chapter 277, page 480, as amended by Acts of the 47th Legislature, 1941, Chapter 442, page 713, and Chapter 290, page 463, and codified as Article 911b, Vernon's Civil Statutes, and Article 1690b, Vernon's Penal Code.

Loan of vehicle without compensation

Sec. 8. It shall be a complete defense to any alleged violation hereof that such commercial motor vehicle or any truck-tractor was under loan to the driver thereof or his employer, and that no compensation was paid for the use thereof.

Violations—Punishment

Sec. 9. The driver, operator, or other person operating or driving such commercial motor vehicle or truck-tractor failing to comply with any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding Two Hundred ($200.00) Dollars. Acts 1953, 53rd Leg., p. 561, ch. 209.

Effective 90 days after May 27, 1953, date of adjournment.

Section 10 of the Act of 1953 repealed conflicting laws and parts of laws and provided that partial invalidity should not impair the remainder of the Act.

Art. 6701c—2. Special license tags for operators of mobile amateur radio equipment

Section 1. Residents of the State of Texas who hold an unrevoked and unexpired official amateur radio station license issued by the Federal Communications Commission and who operate receiving and transmitting mobile amateur radio equipment in passenger cars, upon application, accompanied by proof of ownership of such amateur license, complying with the State motor vehicle laws relating to registration and licensing of motor vehicles, and upon payment of the regular license fee for tags, as prescribed by Article 6675a—5 of Texas Revised Civil Statutes (1925), and the payment of an additional fee of Two ($2.00) Dollars for the first year of such registration and One ($1.00) Dollar for each annual registration thereafter, shall be issued license plates, upon which may be inscribed the official amateur call letters of such applicant as assigned by the Federal Communication Commission.

Sec. 2. Applicants shall furnish proof of the Federal Communications Commission authority and their call letters to the State Highway Department, on or before the 1st day of October, preceding each registration year, and the State Highway Department shall furnish their respective Tax Assessors and Collectors license plates bearing the call letters of the applicant.

Sec. 3. It shall be the duty of the County Tax Assessors and Collectors to keep a copy or copies of the license receipts issued for such call letter license plates shall be kept on file by the Tax Assessors and Collectors. At the regular registration period the Tax Collector shall give the applicant the call letter tags and corresponding receipts. Such call letter license tags shall be the legal registration indignia [1] for the registration year for which issued, on the passenger car containing the mobile amateur radio equipment, while applicant is the bona fide owner of said vehicle.

Sec. 4. If during the registration year the applicant shall sell, trade, give, or in any way dispose of the vehicle upon which the call letter license tags are affixed, he shall turn such tags into the County Tax Assessor and Collector and receive from him replacement license tags for a fee as prescribed by law. Acts 1953, 53rd Leg., p. 633, ch. 244.

1 So in enrolled bill. Probably should be "insignia."

Effective 90 days after May 27, 1953, date of adjournment.

Title of Act:

An Act to provide for the issuance by the State Highway Department of special license tags to owners of passenger motor vehicles who operate mobile amateur radio equipment therein, and who have Federal Communication Commission authority; providing for the registration of such vehicles; providing for the duties of the State Highway Department in regard to this law; providing for additional license fees in excess of the license fees prescribed by law; and declaring an emergency. Acts 1953, 53rd Leg., p. 244, ch. 633.

CHAPTER ONE A—TRAFFIC REGULATIONS

Art. 6701d. Uniform Act Regulating Traffic on Highways

Vehicles

Sec. 2.

(d) Authorized Emergency Vehicle. Vehicles of the fire department (fire patrol), police vehicles, public and private ambulances for which permits have been issued by the State Board of Health, and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the governing body of an incorporated city. As amended Acts 1953, 53rd Leg., p. 749, ch. 297, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Written report of accidents

Sec. 44. (a) The driver of a vehicle involved in an accident resulting in injury to, or death, of any person, or total property damage to an apparent extent of Twenty-five Dollars ($25) or more, shall within ten (10) days after such accident forward a written report of such accident to the Department. Any person who shall fail to make such a report shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 143. The venue for the prosecution of such offense shall be in the county where the accident occurred.

(b) The Department may require any driver of a vehicle involved in an accident of which report must be made as provided in this Section to file supplemental reports whenever the original report is insufficient in the opinion of the Department and may require witnesses of accidents to render reports to the Department.

(c) Every law enforcement officer, who, in the regular course of duty, investigates a motor vehicle accident of which report must be made as required in this Section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within ten (10) days after such accident, forward a written report of such accident to the Department. As amended Acts 1953, 53rd Leg., p. 884, ch. 363.

Emergency. Effective June 8, 1953.

Sections 2 and 3 of the amendatory Act of 1953 read as follows:

"Sec. 2. The provisions of this Act shall not be construed as repealing Sections 4 and 32, nor any other provision of House Bill No. 219, Acts of the Fifty-second Legislature, 1951, Chapter 498, page 1210, also known as Article 6701h of Vernon's Revised Civil Statutes of Texas.

"Sec. 3. 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 part or parts thereof would be declared unconstitutional."

Overtaking and passing school bus

Sec. 104. (a) The driver of a vehicle upon a highway outside of a business or residence district upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle immediately before passing the school bus but may then proceed past

such school bus at a speed which is prudent, not exceeding ten (10) miles per hour, and with due caution for the safety of such children.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words "school bus" in letters not less than eight (8) inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school, all markings thereon indicating "school bus" shall be covered or concealed.

(c) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway. As amended Acts 1953, 53rd Leg., p. 719, ch. 280, § 1.

Regulations relative to school busses

Sec. 105. (a) The State Department of Education by and with the advice of the Director of the Department of Public Safety shall adopt and enforce regulations not inconsistent with this Act to govern the design, color, lighting equipment and operation of all school busses used for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this State and such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to said regulations.

(b) It shall be unlawful to operate any flashing warning signal light on any school bus except when any said school bus is being stopped or is stopped on a highway for the purpose of permitting school children to board or alight from said school bus. As amended Acts 1953, 53rd Leg., p. 719, ch. 280, § 2.

Special restrictions on lamps

Sec. 131. (a) Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps, or flashing turn signals, emergency vehicle warning lamps, and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred (300) candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet (75′) from the vehicle.

"(b) No person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof. This section shall not apply to any vehicle upon which a red light visible from the front is expressly authorized or required by law.

(c) Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow-removal equipment, or on any vehicle as a means for indicating a right or left turn. As amended Acts 1953, 53rd Leg., p. 719, ch. 280, § 3.

Effective 90 days after May 27, 1953, date of adjournment.

Section 4 of the amendatory Act of 1953 provided that partial unconstitutionality should not affect the validity of the remaining parts of the Act. Section 5 repealed inconsistent or conflicting laws to the extent of the inconsistency or in so far as they conflict.

Compulsory inspection

Sec. 140. (a) It shall be the duty of the Texas Department of Public Safety to require every owner of a motor vehicle, trailer, semitrailer, pole trailer or mobile home, registered in this State, to have the brakes, lighting equipment, horns and warning devices, mirrors, and windshield wipers upon such vehicles inspected at State-appointed inspection stations or by State Inspectors as hereinafter provided, that provisions relating to the inspection of trailers and semitrailers shall not apply when the gross weight of such trailers and semitrailers and the load carried thereon is four thousand (4,000) pounds or less. Only the brakes, lighting equipment, horns and warning devices, mirrors, and windshield wipers may be inspected and the owner shall not be required to have any other equipment or part of his motor vehicle inspected as a prerequisite for the issuance of said inspection certificate.

(b) If such inspection discloses the necessity for adjustments, corrections or repairs, only the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers shall be adjusted, corrected or repaired before a certificate is issued as hereinafter provided. The owner may have such adjustments, corrections or repairs made by such qualified person or persons as he may choose, subject to reinspection as hereinafter provided.

(c) Official inspection stations appointed and supervised by the State of Texas shall make all inspections pursuant to the provisions of this Section, except as provided in subdivision (d) hereof. The Department shall cause one (1) inspection to be made in the year commencing with the effective date of this Act, and annually thereafter. The periods of inspection shall be fixed by the Department, provided, however, that at no time shall a certificate of inspection or a receipt for a certificate of inspection be required or demanded as a condition precedent to securing a license plate for any motor vehicle, regardless of any period or periods of inspection as may be fixed by the Department. The Department shall have power to make rules and regulations, not inconsistent with law, with respect to the periods of inspection.

(d) The Department may, in its discretion, permit inspection as herein provided to be made by State inspectors under such terms and conditions as the Department may prescribe. Provided, however, the Department may authorize the acceptance in this State of a certificate of inspection and approval issued in another state having a similar inspection law and may extend the time within which a certificate shall be obtained by the resident owner of a vehicle which was not in this State during the time an inspection was required.

(e) After the period designated for the inspection, no person shall operate on the highways of this State any motor vehicle registered in this State unless a valid certificate of inspection is displayed thereon as required by this Section and any inspector or patrolman of the Department of Public Safety, or any sheriff or deputy sheriff, or any City policeman who shall exhibit his badge or other signs of authority, may stop any motor vehicle not displaying this inspection certificate on the windshield and require the owner or operator to produce an official inspection certificate for the motor vehicle being operated.

(f) Any person operating a motor vehicle on the highways of this State, other than a motor vehicle licensed in another State and being temporarily and legally operated under a valid reciprocity agreement,

in violation of the provisions of this Act, or without displaying an inspection certificate shall be guilty of a misdemeanor, and shall upon conviction be punished as provided in Section 143.

(g) The Department may appoint and remove such patrolmen, assistants, inspectors and employees as it may deem necessary to carry out the provisions of this Section, prescribe their powers and duties, and fix their compensation within the amounts made available by appropriation.

(h) The provisions of this Act shall not apply to the vehicles referred to in paragraph (a) of this Section when moving under or bearing current "Factory Delivery License Plates" or current "Intransient License Plates." Nor shall the provisions of this Act apply to farm machinery, farm trailers, farm tractors, and motor vehicles of factory model 1935 or earlier, provided such motor vehicle is not driven on a federal or state highway. As amended Acts 1953, 53rd Leg., p. 738, ch. 290, § 2.

State appointed inspection stations

Sec. 141. (a) The Department may establish State-appointed inspection stations to carry out the provisions of this Section. Such stations may be located anywhere in the State, and should any be established or appointed, there shall be at least one (1) for each county. The Department is authorized to furnish instructions to, and to supervise official inspection stations for inspection of motor vehicles, trailers, semitrailers, pole trailers and mobile homes for the proper and safe performance of brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers only. Every person desiring to operate as an official inspection station shall file an application for a certificate of appointment with the Department.

The application shall be made upon a form prescribed and furnished by the Department, and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business within the State, and such other information as the Department may require. If the applicant has or intends to have more than one place of business within the State, a separate application shall be made for each place of business.

If the applicant is an association, the application shall set forth the names and the addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof, and any other information prescribed by the Department for purposes of identification. The application shall be signed and verified by oath or affirmation by the owner, if a natural person; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority.

Only such locations which fulfill the Department's requirements and whose owners or proprietors comply with Department regulations shall qualify and be appointed and issued a certificate. Upon approval of an application, the Department shall issue to the owner a certificate of appointment as an official inspection station for the place of business within the State set forth in the application.

Certificates of appointment shall not be assignable, and shall be valid for the owners in whose names issued and for the transaction of business at the place designated therein, and shall at all times be conspicuously displayed at the place for which issued.

Upon being advised that an application will be approved, the applicant shall provide the bond hereinafter required and a fee of Five Dollars ($5) which shall constitute the certificate fee until August thirty-first of the odd-numbered year following the date of appointment. Thereafter, appointments shall be made for two-year periods and the certificate fee for each such period shall be Five Dollars ($5). All certificate fees shall be placed in a fund in the State Treasury to be known as the Motor Vehicle Inspection Fund and shall be used by the Department in the administration of this Act. Provided, however, that any balance remaining in such fund which is determined at any time by the Public Safety Commission to be in excess of the amount required for the administration of this Act may be used by, and is hereby appropriated to, the Texas Department of Public Safety, to be used as follows:

First, to pay the Captains, Sergeants, Privates and Patrol Inspector of the Highway Patrol Division, the Sergeants, Inspectors and Assistant Chief Inspector of the License and Weight Division, and the Captains, Senior Rangers and Junior Rangers of the Texas Rangers, in addition to their regular salary, the maximum sum of Ten Dollars ($10) per month to those who have completed five (5) years service as a law enforcement officer with the Department, the maximum sum of Twenty Dollars ($20) per month to those who have completed ten (10) years of such service, and the maximum sum of Thirty Dollars ($30) per month to those who have completed fifteen (15) years of such service.

Second, for the employment of additional Highway Patrolmen in addition to, but at salaries not to exceed those provided for by the Legislature in the biennial Departmental appropriation, and for defraying the necessary expenses incident to their employment, training, equipping, care, maintenance and administration.

(b) Every owner of an official inspection station shall be required to furnish a bond payable to the State of Texas in the amount of One Thousand Dollars ($1,000), to be approved by the Director of the Department, with two or more good and solvent sureties, or one corporate surety qualified by law to make such bond, to indemnify the State against the violation of any of the terms and conditions of this Act. Except where the surety is a corporate surety as herein provided, the bond shall first be submitted to the county judge of the county in which the inspection station is located, who shall make his recommendation to the Director whether the bond be approved or disapproved. Any inspector or any official or employee of any inspection station who shall issue an official certificate of inspection without having made an inspection of the vehicle for which it is issued or who shall knowingly or willfully issue an official inspection certificate for a motor vehicle or vehicle, the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers of which are not at the time of such issuance in a good condition and in conformity with the laws of this State shall forfeit said bond to the State of Texas.

(c) Any owner of an official inspection station who by himself, agent, servant or employee, violates any provision of this Section or requires the repair of any equipment other than that equipment set forth in Section 140(a) of this Act, shall upon conviction, be punished by a fine not exceeding Five Hundred Dollars ($500). The court in which the conviction was had shall forward to the Department a record of the conviction and may recommend the suspension or cancellation of the certificate of appointment.

The Department may for cause, upon notice in an administrative hearing, cancel or suspend the certificate of any inspection station and

the decision of the Department in respect to the cancellation or suspension of the license of an official inspection station for cause, or the refusal to reissue a license to an official inspection station shall be final. Any aggrieved party may appeal from the decision of said administrative hearing. The proceeding on appeal shall be a trial de novo, as such term is commonly used and intended in an appeal from the justice court to the county court and which appeal shall be taken in any district court of the county in which the person whose certificate of inspection station is involved, resides. At such trial the burden of proof shall always be on the Department and never shifts to the aggrieved party.

(d) The fee for compulsory inspection to be made under this Section shall be One Dollar ($1). One-fourth (¼) of each fee shall be paid to the Department and shall be placed in the Motor Vehicle Inspection Fund for the purpose of paying the expense of the administration of this law. The Department may require each official inspection station to make an advance payment of twenty-five cents (25¢) for each inspection certificate furnished to it, and the money so received shall be placed in the Motor Vehicle Inspection Fund, and no further payment to the Department shall be required upon issuance of the certificate. If such advance payment has been made, the Department shall refund to the inspection station the amount of twenty-five cents (25¢) for each unissued certificate which the inspection station returns to the Department in accordance with rules and regulations promulgated by the Department.

If an inspection disclosed the necessity for adjustments, corrections, or repairs to brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, such motor vehicles shall be reinspected free of charge after the adjustments, corrections or repairs have been made. Any such motor vehicle under the terms of this Act if involved in an accident subsequent to the required inspection shall return to an inspection station after adequate repairs are made for a second and reinspection procedure.

(e) No certificate of inspection shall be issued by any inspector or inspection station until the brakes, lighting equipment, horns and warning devices, mirrors and windshield wipers of the vehicle inspected shall have been found to be in proper and safe condition and to comply with the laws of this State. No person shall make, issue or knowingly use an imitation or counterfeit of an official inspection certificate. As amended Acts 1953, 53rd Leg., p. 738, ch. 290, § 3.

Standards of safety; certificates of inspection

Sec. 142. (a) The Department may establish uniform standards of safety as prescribed in Article XIV of this Act wherever applicable, with respect to brakes, lighting equipment, horns and warning devices, mirrors, and windshield wipers. Such standards of safety shall be posted in every official inspection station. Every motor vehicle inspected shall be required to conform in all respects to the standards of safety established pursuant to this Section.

(b) The Department shall furnish to inspection stations certificates of inspection, serially numbered, each of which shall, when issued, bear the registration number of the motor vehicle for which issued and shall be countersigned by the inspector or person in charge of the inspection station, and shall bear the true date of issuance, and shall be valid for a period not to exceed twelve (12) months from the date of issuance, but in any event such certificates of inspection shall be invalid after the first day of the next ensuing period of inspection. One (1) of such certificates of inspection shall be designated for the windshield of any motor vehicle,

and shall be pasted in the lower right-hand corner of the windshield. A certificate issued on a vehicle other than a motor vehicle shall be attached to such vehicle as the Department may require. The Commission is strictly prohibited from promulgating any regulation not prescribed by Article 14 of this Act. As amended Acts 1953, 53rd Leg., p. 738, ch. 290, § 4.

Effective 90 days after May 27, 1953, date of adjournment.

Section 1 of the amendatory Act of 1953 repealed Acts 1951, 52nd Leg., p. 240, ch. 141, which amended sections 140–142 of this article. Sections 5–7 read as follows:

"Sec. 5. All certificates of appointments and certificates of inspection issued pursuant to House Bill No. 223, Acts of the Fifty-second Legislature, Regular Session, 1951, and all other actions taken under that law shall continue in force.

"Sec. 6. As much of the Motor Vehicle Inspection Fund as may be necessary is hereby appropriated and set aside to pay refunds as provided by law.

"Sec. 7. If any portion of this Act is held unconstitutional by a court of competent jurisdiction, the remaining portions shall nevertheless be valid the same as if the invalid portion had not been a part hereof."

Notice to appear in court; promise to appear

Sec. 148. (a) Whenever a person is arrested for any violation of this Act punishable as a misdemeanor, and such person is not immediately taken before a magistrate as hereinbefore required, the arresting officer shall prepare in duplicate written notice to appear in court containing the name and address of such person, the license number of his vehicle, if any, the offense charged, and the time and place when and where such person shall appear in court. Provided, however, that the offense of speeding shall be the only offense making mandatory the issuance of a written notice to appear in court, and only then if the arrested person gives his written promise to appear in court, by signing in duplicate the written notice prepared by the arresting officer; and provided further, that it shall not be mandatory for an officer to give a written notice to appear in court to any person arrested for the offense of speeding when such person is operating a vehicle licensed in a state or country other than the State of Texas or who is a resident of a state or country other than the State of Texas.

(b) The time specified in said notice to appear must be at least ten (10) days after such arrest unless the person arrested shall demand an earlier hearing.

(c) The place specified in said notice to appear must be before a magistrate within the city or county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense.

(d) The arrested person in order to secure release as provided in this section, must give his written promise so to appear in court by signing in duplicate the written notice prepared by the arresting officer. The original of said notice shall be retained by said officer and the copy thereof delivered to the person arrested. Thereupon, said officer shall forthwith release the person arrested, from custody.

(e) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and shall be subject to removal from office. As amended Acts 1953, 53rd Leg., p. 791, ch. 321, § 1.

Emergency. Effective June 8, 1953.

Section 2 of Acts 1953, 53rd Leg., p. 792, ch. 321, provided that partial unconstitutionality should not affect the validity of the remaining portions of the act. Section 3 repealed inconsistent or conflicting laws or parts of laws to the extent of the conflict only.

Traffic signals or signs in cities or towns with less than 2,500 population

Sec. 158. No incorporated city or town with a population of less than two thousand, five hundred (2,500) according to the last preceding Federal Census shall enact any ordinance for the erection or operation of any traffic signal or sign on any State Highway the cost of which has been paid, either in whole or in part, by the State of Texas, in any such city or town without prior approval thereof by the State Highway Department. Such city or town shall make written application to the State Highway Department for approval of such installation and operation, and upon the filing of any such application, the State Highway Department shall designate an employee to investigate such application, and within ninety (90) days thereafter, said Department shall grant or refuse such application. In granting any such application, the Highway Department may prescribe the conditions under which the signals or signs may be erected and operated, their location, size, shape, height, color, wording, timing, spacing, and all other aspects of such signals or signs, provided that the Highway Department shall consider not only the convenience of the traveling public in raising speed limits in noncongested areas, but also the proper control of traffic for the protection of the lives of school children and other inhabitants of small communities where there are areas of congestion and cross traffic. Added Acts 1953, 53rd Leg., p. 803, ch. 326, § 1.

Arrest for non-compliance with unauthorized signal or sign

Sec. 159. If any officer shall arrest or attempt to arrest or stop the driver of any vehicle for failing to comply with any unauthorized traffic signal or sign, knowing that such signal or sign has not been authorized, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than One Hundred Dollars ($100) and not more than Five Hundred Dollars ($500). Added Acts 1953, 53rd Leg., p. 803, ch. 326, § 1.

Injunction against unauthorized signals or signs

Sec. 160. If any such incorporated city or town shall erect or maintain any traffic signal or sign without having been duly authorized as provided herein, a suit to enjoin erection and maintenance of such signal or sign shall be prosecuted by the County or District Attorney of the county in which it is located, and if such attorneys shall fail to institute any such suit within fifteen (15) days after receipt of request therefor from any citizen of the State of Texas, then any citizen of the State may institute and prosecute same. Added Acts 1953, 53rd Leg., p. 803, ch. 326, § 1.

Speed limits in cities or towns with less than 2500 population; fixing

Sec. 161. The State Highway Department may, upon its own initiative, or upon the application of any city or town or any citizen of the State of Texas, fix the speed limits on such State Highways within the limits of any incorporated city or town of less than two thousand, five hundred (2,500) population according to the last preceding Federal Census, higher or lower than the prima facie speed limits now otherwise established by law, in the same manner as provided in Section 158 hereof, provided that fixing of such speed limits shall be done in accordance with the provisions of Chapter 346 of the Acts of the Fifty-second Legislature, 1951, except where inconsistent herewith. Added Acts 1953, 53rd Leg., p. 803, ch. 326, § 1.

Arrest for speed permitted by department

Sec. 162. If any officer shall arrest, or attempt to arrest, the operator of any motor vehicle for traveling at a rate of speed permitted by the State Highway Department on any State Highway within the limits of any such incorporated city or town, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than One Hundred Dollars ($100) and not more than Five Hundred Dollars ($500). Added Acts 1953, 53rd Leg., p. 803, ch. 326, § 1.

Ordering removal or alteration of traffic signal or sign

Sec. 163. The State Highway Department may, upon its own initiative, or upon the application of any incorporated city or town or any citizen of the State of Texas, order the removal or alteration of any traffic signal or sign erected prior to the passage of this Act. Added Acts 1953, 53rd Leg., p. 803, ch. 326, § 1.

Counties to which preceding sections applicable

Sec. 164. The provisions of the preceding Sections 158, 159, 160, 161, 162, and 163 of this Act shall not apply to cities and towns in counties of less than two hundred and fifty thousand (250,000) population according to the last Federal Census. Added Acts 1953, 53rd Leg., p. 803, ch. 326, § 1.

Preceding sections applicable only to state highways

Sec. 165. Nothing in this Act shall be construed to take away from any incorporated city its authority and jurisdiction over its streets except to the extent provided herein in connection with State Highways only, the cost of which has been paid in whole or in part by the State. Added Acts 1953, 53rd Leg., p. 803, ch. 326, § 1.

Acts 1953, 53rd Leg., p. 803, c. 326, effective 90 days after May 27, 1953, date of adjournment.

Acts 1953, 53rd Leg., p. 803, c. 326, was preceded by the following preamble:

"Whereas, The Legislature has ascertained and found to be a fact that there are many different rates of speed and traffic regulations established in the smaller incorporated towns, which create confusion and bottlenecks in the heavy traffic on the State Highways through the more thickly populated counties in the State; and

"Whereas, "Speed traps" are sometimes tolerated in some small towns situated in the more thickly populated counties, which adds to the confusion and bottlenecks; and

"Whereas, Such confusion and bottlenecks create traffic problems and hazards on our State Highways; and

"Whereas, There is great need for more effective and uniform speed limits and traffic regulation in the more thickly populated areas of the State in order to enhance the safety of both the local public and the traveling public; now, therefore"

Section 2 of the Act repealed conflicting laws and parts of laws to the extent of the conflict. Section 3 provided that partial invalidity should not affect the validity of the remaining portions of the Act.

Art. 6701d—1. Children standing in school bus

It is further provided that it shall be unlawful for any driver of any school bus to permit more than one (1) child per seat to stand while said bus is travelling to or from the school being served. Acts 1953, 53rd Leg., p. 719, ch. 280, § 3A.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 6701d—2. Approval and filing of rules and regulations

Wherever in this Act[1] the Department is authorized to prescribe or to promulgate rules and regulations, such rules and regulations, before they shall become effective, shall be first approved in writing by the Attorney General and filed in the office of the county clerk of each county in this State for public inspection during business hours. Any changes or amendments to such rules and regulations likewise shall be first approved in writing and filed in the office of the county clerk of each county in this State. Acts 1953, 53rd Leg., p. 738, ch. 290, § 4a.

1 This article and art. 6701d, §§ 140–142.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 6701g. Restricted traffic zones in counties of 500,000 population

Establishment

Section 1. The Commissioners Court of any county in this State having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census is hereby authorized to create and establish restricted traffic zones on county roads under their jurisdiction. As amended Acts 1953, 53rd Leg., p. 575, ch. 218, § 1.

Emergency. Effective May 27, 1953.

Traffic control devices

Sec. 3. The Commissioners Court of any county having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census may adopt rules and regulations consistent with this Act for the establishment of a system of traffic control devices within restricted traffic zones established on county roads under its jurisdiction and such system shall conform to the State Highway Department's manual and specifications. The Court may, pursuant to order entered on its minutes, place, erect, install and maintain upon county roads within traffic zones such traffic control devices, including but not limited to traffic signal lights and stop signs, as it may deem necessary for the public safety. As amended Acts 1953, 53rd Leg., p. 575, ch. 218, § 1.

Stopping, standing or parking

Sec. 4. The Commissioners Court of any county having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, with respect to roads under its jurisdiction, may place signs prohibiting or restricting the stopping, standing, or parking of vehicles on any road within a restricted traffic zone where in the opinion of the Commissioners Court such stopping, standing, or parking is dangerous to those using the road or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic. Such signs shall be erected pursuant to order of the Court and it shall be unlawful for any person to stop, stand, or park any vehicle in violation of the restrictions stated on such signs. As amended Acts 1953, 53rd Leg., p. 575, ch. 218, § 1.

CHAPTER TWO—ESTABLISHMENT OF COUNTY ROADS

Art. 6704. 6871–2–3–4 Classes of roads; cattle guards across roads authorized in counties of 5,690 to 5,750 population; penalty

The Commissioners Court shall classify all public roads in their counties as follows:

1. First class roads shall be clear of all obstructions, and not less than forty (40) feet nor more than one hundred (100) feet wide; all stumps over six (6) inches in diameter shall be cut down to six (6) inches of the surface and rounded off, and all stumps six (6) inches in diameter and under, cut smooth with the ground, and all causeways made at least sixteen (16) feet wide. No first or second class road shall be reduced to a lower class.

2. Second class roads shall conform to the requirements of first class roads except that they shall be not less than forty (40) feet wide.

3. Third class roads shall not be less than twenty (20) feet wide and the causeway not less than twelve (12) feet wide; otherwise they shall conform to the requirements of first class roads.

4. Any county in this State containing a population of less than ten thousand (10,000) inhabitants, according to the last preceding Federal Census, may by a majority vote of the Commissioners Court thereof authorize the construction of cattle guards across any or all of the first class, second class, or third class roads in said county, and such cattle guards shall not be classed or considered as obstructions on said roads.

The Commissioners Court of any county coming under the provisions of this Act shall within sixty (60) days after this Act takes effect, provide proper plans and specifications of a standard cattle guard to be used on the roads of said county, said plans and specifications to be plainly written, supplemented by such drawings as may be necessary and shall be available to the inspection of the citizenship of such county. After said Commissioners Court provides said proper plans and specifications of a standard cattle guard to be used on the roads of said county any person constructing any cattle guard that is not in accordance with said approved plans and specifications prepared by said Commissioners Court shall be deemed guilty of obstructing said roads of said county, and the person responsible for such improper construction of said cattle guards shall be deemed guilty of a misdemeanor, and shall be fined not less than Five ($5.00) Dollars nor more than One Hundred ($100.00) Dollars.

The Commissioners Court of any county coming under the provisions of this Act is hereby authorized and empowered to construct cattle guards on the first class, second class, and third class roads of said county and pay for same out of the Road and Bridge Funds of said county when in their judgment they believe the construction of such cattle guards to be to the best interest of the citizens of said county. As amended Acts 1953, 53rd Leg., p. 675, ch. 256, § 1.

Emergency. Effective June 4, 1953.

Art. 6711. 6889–6900 Neighborhood roads

Any lines between different persons or owners of lands, any section line, or any practicable route, practicable route as used herein, shall mean a route which will not unduly inconvenience the owners or persons oc-

cupying the land through which such route shall be declared, that the Commissioners Court may agree on in order to avoid hills, mountains or streams through any and all enclosures, shall be declared a public highway on the following conditions:

1. One or more freeholders, or owners of lands, persons, firms or corporations, into whose lands there is now no public road or public means of access, who desires an access road connecting his said land with the county public road system, may make a sworn application to the Commissioners Court for an order establishing such road, designating the lines sought to be opened, and the names and residences of the person or persons affected by such proposed access road, and stating the facts which show a necessity therefor.

2. Upon the filing of such application the County Clerk shall issue a notice, reciting the substance thereof, directed to the Sheriff or any Constable of the County, commanding him to summon such landowners as may be affected by the opening of said road, naming them, to appear at the next regular term of the Commissioners Court to contest the same, if they so desire, and to testify as to the amount of damage they will sustain, if any, by reason of the establishment of such road. Said notice shall be served in the manner and for the length of time provided for the service of citations in civil actions in justice courts, and shall be returned in like manner as such citation.

3. At a regular term of the court, after due service of such notice, the court may hear evidence as to the truth of such application, and if it appears that the said applicants have no means of access to their lands and premises, it may issue an order declaring the lines designated in the application, or such lines as may be fixed by the Commissioners Court, to be a public highway, and direct the same to be opened by the owners thereof and left open for a space of not less than fifteen (15) feet nor more than thirty (30) feet on each side of said line, but the marked trees and other objects used to designate said lines, and the corners of surveys, shall not be removed nor defaced. Notice of such order shall be immediately served on such owners, and return thereon made as hereinabove provided. A copy of such order shall be filed in the Deed Records in the office of the County Clerk of said County.

4. The damages to such landowners shall be assessed by a jury of freeholders, as for other public roads, and all costs attending the proceedings in opening said road shall be paid by the County, and the Commissioners Court shall not be required to keep such road worked by the road hands as in the case of other public roads, but shall place said roads in the first instance in condition for use as access public roads. As amended Acts 1953, 53rd Leg., p. 1054, ch. 438, § 1.

It is the purpose of this Act to make accessible to the public, properties belonging to such private individuals as have been deprived, or may be deprived, of any means of access to their said properties from the county public road system, and which properties are not now accessible to the general public, by establishing such roads over the most economical and convenient route to be determined as hereinabove set out. Acts 1953, 53rd Leg., p. 1054, ch. 438, § 2.

Emergency. Effective June 13, 1953.

CHAPTER SIX.—PARTICULAR COUNTIES, LAW RELATING TO [NEW]

Art. 6812c. Building or set back lines; adjacent counties of 350,000 population

Establishment of set back lines on major highways and roads

Section 1. Whenever the Commissioners Court in any county having a population of not less than 350,000 according to the last Federal Decennial Census and which is adjacent to another county having a population of not less than 350,000 according to the last Federal Decennial Census, deems that the general welfare will be promoted thereby, it is hereby authorized and empowered to establish building lines or set-back lines on major highways and roads in such county, not to exceed one hundred fifty (150) feet from the center line of such major highways and roads, and to prohibit any new building being located within such building or set-back lines outside of the corporate limits of any city, village or incorporated town. Such Commissioners Court is further authorized and empowered to regulate and limit and to change and amend by order such building or set-back lines on such major highways or roads and to prohibit any new buildings being located within such building or set-back lines outside the corporate limits of any city, village or incorporated town.

Hearing and adoption of plan; amendment or alteration

Sec. 2. Before the adoption of any plan for major highways and the establishing of building or set-back lines thereon the Commissioners Court shall hold at least one public hearing related thereto, fifteen days notice of the time and place of which shall be published in at least one newspaper having general circulation within the county. Such hearing may be adjourned from time to time. Adoption of the major highway plan shall be by resolution carried by not less than a majority vote of the full membership of the court. The establishment of building or set-back lines shall be by order passed by not less than a majority vote of the full membership of the court. After adoption of a major highway plan or plans an attested copy shall be filed with the County Clerk. Thereafter, the Commissioners Court may upon like approval, publication and notice change, amend, supplement or alter the major highway plan and building lines relating thereto.

Notice; failure to begin construction

Sec. 3. The property owners of all property fronting upon any major highway or road on which a building line or set-back line has been established shall be charged with notice of the requirement of the building line order. All building lines established pursuant to this Act shall be shown in a general manner upon a map and the same shall be filed with the County Clerk and notice thereof shall be published in at least one newspaper having general circulation within the county, and such notice shall also be posted in at least three conspicuous places along each highway affected; provided, however, that in the event the county should

fail to begin the construction of the improvement or widening of the road on which any building or set-back line has been established within four (4) years from the date when said building or set-back line had been fixed, such designation of the building or set-back line shall cease and be of no force or effect unless the time is extended therefor by agreement of the county and the property owners interested.

Board of adjustment

Sec. 4. The Commissioners Court is hereby authorized and empowered to appoint a Board of Adjustment. Such Board shall consist of five (5) freeholders of such county. The membership of the first Board appointed shall serve respectively: two members for one year, and three members for two years. Thereafter members shall be appointed for terms of two years. Members shall be removable for cause by the Commissioners Court upon written charge after public hearings. Vacancies shall be filled by the Commissioners Court for the unexpired term of any member whose term becomes vacant. The Board of Building Line Adjustment shall elect its own chairman and shall adopt rules of procedure. All meetings of the Board shall be open to the public and minutes shall be kept and filed in the office of the Board and shall be a public record. Said Board of Adjustment shall have the following powers and it shall be its duty to modify or vary the regulations affecting building lines or set-back lines in specific cases, subject to appropriate conditions and safeguards in cases where unnecessary hardship may result from a literal enforcement of such building line or set-back line requirements, so that substantial justice may be done and the intent and purpose of the regulations to protect the public welfare and public safety observed:

Such Board of Adjustment shall hear and decide appeals where, by reason of exceptional narrowness, shallowness, shape, topography, existing building development or other exceptional and extraordinary situation or condition of a specific piece of property, the strict application of a building line established under this Act would result in peculiar and exceptional difficulties to, or hardship to, the owner of such property, to authorize upon an appeal relating to such property, a variance from the strict application under such conditions as such Board of Adjustment may impose so as to relieve the hardship or difficulties, provided such relief can be granted without substantially impairing the intent and purpose of the building line or set-back line.

The Board of Adjustment shall, with appropriate safeguards, authorize the construction of improvements or structures which may encroach on any building or set-back line established under this Act; provided, however, that should the county proceed with the projected improvement of the road within the time specified herein, then the owner of such improvements will be required to remove the same without cost to the county whatsoever.

Violation of line; injunction or abatement

Sec. 5. In case any building or structure is erected, constructed or reconstructed in violation of any building line or set-back line adopted by any Commissioners Court pursuant to this Act, then such court, the District Attorney or County Attorney, as the case may be, any owner of real property within the county in which such building or structure is located may institute injunction, mandamus, abatement, or any appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction or reconstruction.

Appeals

Sec. 6. Any property owner who feels injured or damaged by any Act or order of the Board of Adjustment may appeal within thirty days from such act or order to the Commissioners Court of such county. Any property owner in such county who feels injured or damaged by any final order of such Board of Adjustment or by any final order of such Commissioners Court shall have and is hereby given the right to appeal from such order to the District Court or to any other court having jurisdiction thereof, provided that such appeal shall be made within thirty days from the date of such order; and provided further that such appellant shall execute an appeal bond in an amount fixed by such court. Acts 1953, 53rd Leg., p. 704, ch. 269.

Effective 90 days after May 27, 1953, date of adjournment.

Title of Act:

An Act authorizing the Commissioners Courts of certain counties to adopt a major highway plan and to establish building lines or set-back lines along such thoroughfares, and to create a Board of Adjustment relating thereto; and declaring an emergency. Acts 1953, 53rd Leg., p. 704, ch. 269.

TITLE 117—SALARIES

Art. 6813. Enumeration

Temporary act

Acts 1953, 53rd Leg., p. 451, ch. 136, §§ 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, 1953 and ending August 31, 1955 in such sums or amounts as may be provided for by the Legislature in the general appropriations Act. 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."

Emergency. Effective May 14, 1953.

Acts 1951, 51st Leg., p. 811, ch. 455, §§ 1, 2, made similar provisions for the period beginning September 1, 1951, and ending August 31, 1953.

Offices of State Mining Board and Mine Inspector abolished and rights and duties transferred to Commissioner of Labor Statistics, see art. 5892.

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 General 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 pri-

vately 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 of seven cents (7¢) for each mile actually traveled, and no additional expense incident to the operation of such automobile shall be allowed. As amended Acts 1949, 51st Leg., p. 913, ch. 491, § 1; Acts 1953, 53rd Leg., p. 660, ch. 250, § 1.

Emergency. Effective June 1, 1953.

TITLE 120—SHERIFFS AND CONSTABLES

1. SHERIFFS

Art. 6877—2. Automobile allowance to sheriffs and constables in counties of 350,000 inhabitants

In each county in this State having a population of three hundred fifty thousand (350,000) inhabitants, or more, according to the last preceding Federal Census, where the county does not furnish the sheriff or his deputies automobiles, the sheriff and the deputy sheriffs may each be allowed an automobile allowance in a sum to be determined by the Commissioners Court, provided it shall not exceed Ten (10¢) Cents per mile for each mile traveled on official business outside the county. Such automobile allowance shall be paid upon a sworn statement of the sheriff or his deputies. Acts 1953, 53rd Leg., p. 685, ch. 261, § 1.

Emergency. Effective June 4, 1953.

Section 2 of the Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict.

Title of Act:

An Act providing for automobile allowance to be paid the sheriffs and their deputies in counties having a population of three hundred fifty thousand (350,000) inhabitants, or more, where the county does not furnish automobiles; repealing all laws in conflict; and declaring an emergency. Acts 1953, 53rd Leg., p. 685, ch. 261.

2. CONSTABLES

Art. 6889d. Transportation or automobile allowance; all counties

Section 1. The County Commissioners Courts of this State are hereby authorized to supply or pay for transportation of constables and deputy constables of the respective counties and justice precincts to and from points within this State, under one of the four following subsections:

(a) Constables and deputy constables may be furnished adequate motor transportation including all expense incidental to the upkeep and operation of such motor vehicles.

(b) Motor vehicles may be furnished to constables and deputy constables who may furnish gas and oil, wash and grease, incidental to the operation of such vehicles; for which gas and oil, wash and grease, such

constables and deputy constables may be compensated at a rate not to exceed four cents (4¢) per mile for each mile such vehicle is operated in the performance of the duties of his or their office.

(c) County Commissioners Courts may allow constables and deputy constables in the respective counties and justice precincts to use and operate cars on official business personally owned by them for which such officers may be paid not less than six cents (6¢) per mile nor more than ten cents (10¢) for each mile traveled in the performance of official duties of their office.

(d) All compensation paid under the provisions of this Act shall be upon a sworn statement of such constable or deputy constable.

Sec. 2. If any section, subsection, paragraph, sentence or portion of this Act is held 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 such remaining portions despite such invalidity. Acts 1953, 53rd Leg., p. 56, ch. 45.

Emergency. Effective March 30, 1953.

Section 3 of the Act of 1953 repealed all conflicting laws and parts of laws to the extent of such conflict.

Title of Act:

An Act authorizing County Commissioners Courts to compensate constables and deputy constables for transportation or furnish adequate transportation within the State; providing for sworn statements covering such transportation; providing that this Act shall be severable; repealing all laws in conflict with this Act; and declaring an emergency. Acts 1953, 53rd Leg., p. 56, ch. 45.

TITLE 120A—STATE AND NATIONAL DEFENSE

COMMUNISM

Art. 6889—4. Civil Protection Act

Acceptance and disbursement of gifts, grants or loans

Sec. 5. Whenever the Federal Government or any other public or private agency or individual may offer to the State, or through the State to any political subdivision thereof services, equipment, supplies, materials or funds as gifts, grants, or loans for purposes of civil defense and/or disaster relief, the State, acting through the Governor, if required by the donor, and the political subdivision through its executive officer or governing body, may accept such offer in behalf of the State, or its political subdivision. The Governor or his designated agent is hereby authorized to determine when a public calamity or disaster has occurred. Where any gift, grant, or loan is accepted by the State, the Governor or, upon his designation, the State Defense and Disaster Relief Council or the State Co-ordinator of Civil Defense and Disaster Relief, or such other officer or agency as the Governor may designate, shall have authority to dispense the gift, grant, or loan directly to accomplish the purposes for which it was made, or to allocate and transfer to any political subdivision of this State such services, equipment, supplies, materials, or funds in such amount as he or his designated agent may determine. All such funds received by the State shall be placed in the State Treasury in a special fund or funds and shall be disbursed by warrants issued by the Comptroller of Public Accounts upon order of the Governor or his designated agent, who may be named by him either in a written agreement accepting the funds or in a written authorization filed with the Secretary

of State. Where the funds are to be used for the purchase of equipment, supplies, or commodities of any kind, it shall not be necessary that bids be obtained or that the purchases be approved by any other agency. Upon receipt of an order for disbursement, it shall be the duty of the Comptroller to issue a warrant without delay. All political subdivisions of the State, including counties, municipalities, and all other political subdivisions of every nature, are hereby authorized to accept and utilize all such services, equipment, supplies, materials, and funds to the full extent authorized by the agreement under which they are received by the State or by the political subdivision. As amended Acts 1953, 53rd Leg., p. 641, ch. 247, § 1.

Emergency. Effective May 27, 1953.

Amendment by Acts 1953, 53rd Leg., p. 965, ch. 408, § 1, see section 5, post.

Section 2 of the amendatory Act of 1953, Acts 1953, 53rd Leg., p. 641, ch. 247, read as follows: "All moneys received pursuant to Section 5 of Chapter 311, Acts of the 52nd Legislature, as amended in this Act, are hereby appropriated for the purposes for which they are received, given, or granted."

Acts 1953, 53rd Leg., p. 641, ch. 247, was preceded by the following preamble:

"Whereas, The cities of Waco and San Angelo and other Texas communities have recently suffered calamitous disasters from tornadoes, which have left large portions of the communities in wrecked condition threatening the health and safety of their inhabitants; and

"Whereas, The Federal Government, pursuant to Public Law 875, 81st Congress, has at its disposal funds which may be made available to the State of Texas for the purpose of providing assistance and relief to disaster-stricken areas, which may be dispensed under the direction of the Governor of the State: and

"Whereas, The Governor of Texas has entered into an agreement with the Federal Government whereby the Federal Government will grant to the State of Texas a sum of money to be used by the Governor for the purposes contemplated by Public Law 875; and

"Whereas, There is urgent need to provide the Governor with sufficient authority to make portions of this grant immediately available for relief of the areas which have suffered the havoc of these tornadoes; now, therefore,"

Acceptance and disbursement of gifts, grants or loans

Sec. 5. Whenever the Federal Government or any other public or private agency or individual may offer to the State, or through the State to any political subdivision thereof services, equipment, supplies, materials or funds as gifts, grants, or loans for purposes of civil defense and/or disaster relief, the State, acting through the Governor, if required by the donor, and the political subdivision through its executive officer or governing body, may accept such offer in behalf of the State, or its political subdivision. The Governor or his designated agent is hereby authorized to determine when a public calamity or disaster has occurred. Where any gift, grant, or loan is accepted by the State, the Governor or, upon his designation, the State Defense and Disaster Relief Council or the State Co-ordinator of Civil Defense and Disaster Relief, or such other officer or agency as the Governor may designate, shall have authority to dispense the gift, grant, or loan directly to accomplish the purposes for which it was made, or to allocate and transfer to any political subdivision of this State such services, equipment, supplies, materials, or funds in such amount as he or his designated agent may determine. All such funds received by the State shall be placed in the State Treasury in a special fund or funds and shall be disbursed by warrants issued by the Comptroller of Public Accounts upon order of the Governor or his designated agent, who may be named by him either in a written agreement accepting the funds or in a written authorization filed with the Secretary of State. Where the funds are to be used for the purchase of equipment, supplies, or commodities of any kind, it shall not be necessary that bids be obtained or that the purchases be approved by any

other agency. Upon receipt of an order for disbursement, it shall be the duty of the Comptroller to issue a warrant without delay. All political subdivisions of the State, including counties, municipalities, and all other political subdivisions of every nature, are hereby authorized to accept and utilize all such services, equipment, supplies, materials, and funds to the full extent authorized by the agreement under which they are received by the State or by the political subdivision. As amended Acts 1953, 53rd Leg., p. 965, ch. 408, § 1.

Emergency. Effective June 8, 1953.

Amendment by Acts 1953, 53rd Leg., p. 641, ch. 247, § 1, see section 5, ante.

Acts 1953, 53rd Leg., p. 965, ch. 408, was preceded by the following preamble:

"Whereas, The cities of Waco and San Angelo and other Texas communities have recently suffered calamitous disasters from tornadoes, which have left large portions of the communities in wrecked condition threatening the health and safety of their inhabitants; and

"Whereas, The Federal Government, pursuant to Public Law 875, 81st Congress, has at its disposal funds which may be made available to the State of Texas for the purpose of providing assistance and relief to disaster-stricken areas, which may be dispensed under the direction of the Governor of the State; and

"Whereas, The Governor of Texas has entered into an agreement with the Federal Government whereby the Federal Government will grant to the State of Texas a sum of money to be used by the Governor for the purposes contemplated by Public Law 875; and

"Whereas, There is urgent need to provide the Governor with sufficient authority to make portions of this grant immediately available for relief of the areas which have suffered the havoc of these tornadoes; now, therefore,"

Section 2 of Acts 1953, 53rd Leg., p. 965, ch. 408, appropriated moneys received under this section as amended for the purposes for which they were received, given or granted.

TITLE 121—STOCK LAWS

CHAPTER FIVE—STOCK LAW AND LIMITED RANGE

Art. 6930. 7209, 4978 To order election

Upon the written petition of fifty (50) freeholders of any county, or upon the petition of twenty (20) freeholders of any subdivision of a county, the Commissioners Court of such county shall order an election to be held in said county or subdivision, on some day named in the order, for the purpose of enabling the freeholders of such county or subdivision to determine whether any one or more of the following classes of animals, to wit: horses, mules, jacks, jennets, donkeys, hogs, sheep, and goats, shall be permitted to run at large in such county or subdivision. As amended Acts 1953, 53rd Leg., p. 789, ch. 318, § 1.

Emergency. Effective June 5, 1953.

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, Archer, Armstrong, Atascosa, Austin, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crane,

Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Harris, Harrison, Hartley, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kimble, Kleberg, Knox, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, Madison, Marion, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Throckmorton, Titus, Tom Green, Travis, Upshur, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Wise, Wood, Young, Zapata, and Zavala; or upon the petition of fifty (50) freeholders of any such subdivision of any county of this State as may be described in the petition, and defined by the Commissioners Court of the county in which said subdivision is situated, the 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 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; Acts 1953, 53rd Leg., p. 789, ch. 318, § 2.

Emergency. Effective June 5, 1953.

Art. 6965. Duty of officers

It shall be the duty of any sheriff or constable of any county, or subdivision thereof, within this State, where the provisions of this chapter are or may hereafter become operative, to seize any stock which may become known to him to be running at large on any outside premises where the provisions of the stock law are in force, and impound the same in some place provided for that purpose, and immediately notify the owner thereof, if such owner is known to such officer, who may redeem the same on the payment of an impounding fee of One Dollar ($1) per head, and the following additional fee for each day such stock is so kept: One Dollar ($1) per day per head for horses, mules. and cattle fifty cents (50¢) per day per head for jacks and jennets, and twenty-five cents (25¢) per day per head for sheep, goats, and swine. As amended Acts 1953, 53rd Leg., p. 817, ch. 329, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 6967. 7251 Fees for impounding

Any owner, lessee or person in lawful possession of inclosed lands shall be entitled to the following fees for impounding stock, to wit: fifty cents (50¢) per day per head for horses and mules, thirty-five cents (35¢) per day per head for cattle, thirty cents (30¢) per day per head for jacks and jennets, twenty-five cents (25¢) per day per head for swine, and fifteen cents (15¢) per day per head for sheep and goats. The damages done by such stock, if any, and the fees due to the taker-up of such stock, if any, may be assessed by any three (3) disinterested freeholders of the subdivision in which said stock is taken up, who shall, upon the application of the taker-up of the stock, be appointed by the justice of the peace of the precinct in which such subdivision is situated. When such justice shall fail or refuse to make appointments, or when the stock law has been adopted by an entire county, said freeholders shall be appointed by the county judge of the county. Said freeholders, after being duly sworn to discharge with impartiality the duties devolving upon them by said appointment, shall proceed after hearing the evidence to determine whether or not any trespass prohibited by the provisions of this chapter has been committed, and to ascertain the damages, if any, occasioned thereby, and the fees due the taker-up of the stock by reason of said trespass, and shall make an assessment of damages and fees in writing and signed by said freeholders, or two (2) of them, and verified by the affidavit of said freeholders to the effect that said assessment is just and that they have no bias in favor of or prejudice against any party interested therein, and shall file said assessment with the justice of the peace, which shall be final; provided, that the owner of the stock, if known, shall have five (5) days notice of the time and place of the meeting of said freeholders, and if the owner is unknown, then a written notice thereof shall be posted in two (2) public places in said subdivision and one (1) at the courthouse door of the county. As amended Acts 1953, 53rd Leg., p. 817, ch. 329, § 2.

TITLE 122—TAXATION

CHAPTER ONE—LEVY OF TAXES AND OCCUPATION TAXES

Art. 7047a—19. Admission taxes; reports; apportionment

Every person, firm, association of persons, or corporation owning or operating any place of amusement which charges a price or fee for admission, including exhibitions in theaters, motion picture theaters, opera halls, and including horse racing, dog racing, motorcycle racing, automobile racing, and like contest and exhibitions, and including dance halls, night clubs, skating rinks, and any and all other places of amusements not prohibited by law, shall file with the State Comptroller a quarterly report on the twenty-fifth day of January, April, July and October for the quarter ending on the last day of the preceding month; said report shall show the gross amount received and the price or fee for admission; provided, however, that the report herein required shall be made upon the day following each amusement, exhibition, entertainment or contest, when such amusement, exhibition, entertainment or contest is held at any place other than

a regular fixed place or establishment; and further provided, however, no tax shall be levied under this Act on any admission collected for dances, moving pictures, operas, plays, and musical entertainments, all the proceeds of which inure exclusively to the benefit of state, religious, educational or charitable institutions, societies, or organizations, if no part of the net earnings thereof inures to the benefit of any private stockholder or individual or for any type of exhibition or amusement conducted by and for which all of the net proceeds inure to the benefit of a nonprofit corporation organized and chartered under the laws of the State of Texas, for the purpose of encouraging agriculture by the maintenance of public fairs and exhibitions of livestock; and provided further, that entertainments such as motion pictures, operas, plays, and like amusements held at a fixed and regular established motion picture theater where the admission charge is less than eighty-one cents (81¢) per person, and where no tax is due hereunder, shall be relieved from the filing of a report and the payment of a tax levied under the provisions of this Section. Said person, firm, association of persons, or corporations, at the time of making such report shall pay to the Treasurer of this State a tax in rates and amounts as follows:

1. A tax of one cent (1¢) on each ten cents (10¢) or fractional part thereof paid as admission to entertainments such as motion pictures, operas, plays, and like amusements held at places other than at a fixed and regular established motion picture theater, where the admission charged is in excess of fifty-one cents (51¢) per person.

2. On each admission to entertainments such as motion pictures, operas, plays and like amusements held at a fixed or regularly established motion picture theater, where the admission charged is in excess of eighty cents (80¢) and not more than ninety cents (90¢), a tax of three cents (3¢); and where the admission charged is in excess of ninety cents (90¢) a tax of five cents (5¢) plus one cent (1¢) on each ten cents (10¢) or fractional part thereof in excess of One Dollar ($1).

3. A tax of one cent (1¢) on each ten cents (10¢) or each fractional part thereof paid as admission to horse racing, dog racing, motorcycle racing, automobile racing, and like mechanical or animal contests and exhibitions.

4. A tax of one cent (1¢) on each ten cents (10¢) or a fractional part thereof paid as admission to dance halls, night clubs, skating rinks, and any and all other like places of amusements, contests, and exhibitions where the admission charged is in excess of fifty-one cents (51¢).

5. On the amounts paid for admission by season ticket, subscription, or lease for admission to any place of amusement, a tax equivalent to ten per centum (10%) of the amount paid therefor, provided a single admission to the place of amusement would be subject to taxation under the foregoing provisions.

6. All the revenues derived under and by virtue of this Section shall be credited by the Treasurer, one-fourth (¼) to the Available School Fund, and three-fourths (¾) to the Texas Old Age Assistance Fund. As amended Acts 1953, 53rd Leg., p. 62, ch. 49, § 1.

Emergency. Effective April 1, 1953.

Art. 7047a—19a. Failure to pay admission tax; forfeiture; lien

In the event any person, firm, association of persons, or corporation who operates any place of amusement as designated in Section 1 of this Act upon which an admission tax is due shall fail or refuse to pay said

tax to the Treasurer of this State on or before the date provided in this Act, he shall forfeit to the State of Texas not less than Twenty-five Dollars ($25) nor more than One Hundred Dollars ($100) for each violation, and each day's delinquency shall constitute a separate offense. The State of Texas shall have a prior lien for all delinquent taxes and penalties on all property used by the owner or operator of any such place of amusement, and the Attorney General of the State of Texas may file suit for the collection of such tax and penalties in any district court of Travis County, Texas, and for the foreclosure of such lien, and may enjoin the operation of any such business until such tax is paid. Acts 1953, 53rd Leg., p. 62, ch. 49, § 2.

Art. 7047a—19b. Failure or refusal to file report a misdemeanor; punishment; venue

Any person managing or controlling any place of amusement required to file a report under Section 1 of this Act, who shall fail or refuse to file such report on the date provided in this Act, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than Twenty-five Dollars ($25) nor more than One Hundred Dollars ($100) and such punishment shall be in addition to the civil penalties herein provided for. The venue for such prosecutions is hereby conferred upon the courts of Travis County. Acts 1953, 53rd Leg., p. 62, ch. 49, § 3.

Art. 7047b. Tax on producers of natural gas

Calculation of tax; market value; payment

Sec. 1.

(3) All liquid hydrocarbons that are recovered from gas by means of a separator or by other nonmechanical methods, incidental to the production of said gas, shall be taxed at the same rate as oil. As amended Acts 1953, 53rd Leg., p. 456, ch. 142, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 7047c—1. Cigarette Tax

Laws 1953, 53rd Leg., p. 634, ch. 245, § 3, eff. Sept. 1, 1953, apparently intended as a repealing provision, read as follows: "Chapter 241, Acts 44th Legislature, Regular Session, 1935, as amended, and all other laws or parts of laws in conflict herewith are repealed to the extent of such conflict."

The Act of 1953 related to the purposes for which an appropriation from the State Hospitals and Special Schools Building Fund might be used. By section 4 of the Act it is effective only during the biennium beginning September 1, 1953, and ending August 31, 1955.

Art. 7047d. Tax on dealers in pistols

Sec. 3. Each such dealer shall keep a permanent record of all such pistols bartered, leased, or otherwise disposed of, as above. Such record shall show the number of the pistol, name of the manufacturer, date of the transaction, salesman, purchaser, and their addresses, which said record shall at all times be accessible to the Comptroller, Prosecuting Attorney, Grand Jury, and Attorney General, and a copy of this record shall be mailed to and filed for record with the Department of Public Safety. This filing to be made each three (3) months.

"Pistols," as used herein, shall include every kind of pistol, revolver, automatic, semi-automatic, magazine pistol, and every other such short firearm intended or designed to be aimed or fired from one hand. As amended Acts 1953, 53rd Leg., p. 504, ch. 182, § 1.

Emergency. Effective May 19, 1953.

The amendatory Act of 1953 contained the following preamble:

"Whereas, Section 3, Article 7047d, Vernon's Texas Civil Statutes, 1948, wherein the above Act is compiled, requires all dealers in pistols to keep a permanent record of all pistols bartered, leased, or otherwise disposed of, and a copy of such record to be mailed each three (3) months to the Adjutant General's Department; and

"Whereas, This provision was enacted when the State Rangers were a part of the Adjutant General's Department and was designed to assist the Rangers in carrying out their functions as a law enforcement agency; and

"Whereas, The State Ranger force has, since the enactment of Article 7047d, Vernon's Texas Civil Statutes, 1948, been transferred to the Department of Public Safety; and

"Whereas, The Department of Public Safety is the principal law enforcement agency of the State government, and such reports of pistol sales can be of great assistance to the Department of Public Safety in its function of law enforcement; now, therefore,"

CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art. 7063. 7375 Sleeping, palace or dining car companies

Every sleeping car company, palace car company, or dining car company doing business in this State, and each individual, company, corporation or association leasing or renting, owning, controlling or managing any palace cars, dining cars, or sleeping cars within this State for the use of the public, for which any fare is charged, shall, on the first days of January, April, July, and October of each year, report to the Comptroller, under oath of the individual or of the president, treasurer, or superintendent of such company, corporation, or association, showing the amount of gross receipts earned from any and all sources whatever within this State, except from receipts derived from buffet service, during the quarter next preceding. Said individuals, companies, corporations and associations, 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 equal to five per cent (5%) of said gross receipts as shown by said report. The tax herein provided for shall be in lieu of all other taxes now levied upon sleeping car, palace car or dining car companies. As amended Acts 1953, 53rd Leg., p. 593, ch. 236, § 1.

Emergency. Effective May 28, 1953.

Art. 7065b—2. Motor fuel; occupational or excise tax of 4 cents per gallon; collection; interstate commerce; in lieu of other motor fuel taxes

(b) Provided further, that the tax on one and one-half per cent (1½%) of the taxable gallonage shall be deducted by the distributor in the payment to the State of Texas of the tax levied hereby. This deduction is for ordinary evaporation and other handling losses not provided for in Section 13 of this Article [1] from the time of the first sale or distribution of motor fuel in this State until its ultimate delivery to the person using or consuming such motor fuel and for the expense of collecting, accounting for, and reporting the tax levied hereunder.

This deduction or allowance of one and one-half per cent (1½%) shall be apportioned among all persons selling, distributing or handling motor fuel in this State as follows:

(1) One-third (⅓) to the distributor making the first sale or distribution of such motor fuel and paying the tax levied hereunder to the State of Texas;

(2) One-third (⅓) to the wholesaler, jobber or other person purchasing motor fuel from a distributor or other person for resale or distribution to retailers or other persons making sales or distributions to persons using or consuming such motor fuel, except that if any sales or distributions are made between wholesalers, jobbers or other similar persons between the time the motor fuel is purchased or otherwise acquired from a distributor and the time of its sale or other distribution to the retailer or other person making sales or distributions to the persons using or consuming such motor fuel then the aggregate or total allowance to all such wholesalers, jobbers or similar persons shall not exceed this one-third (⅓);

(3) One-third (⅓) to the retailer or other person making a sale or distribution of such motor fuel to the person using or consuming such motor fuel.

In the distribution of motor fuel in this State if any person performs more than one (1) of the three (3) functions or activities referred to above (distributor, jobber or wholesaler, and retailer) then he shall be entitled to an allowance of one-third (⅓) of said one and one-half per cent (1½%) for each such function or activity, provided the aggregate allowances shall never exceed said one and one-half per cent (1½%).

Nothing contained herein shall be construed as entitling any person using or consuming motor fuel in this State to any portion of the allowance or deduction above provided for.

Pursuant to rules and regulations to be issued by the Comptroller of Public Accounts the allowance of one and one-half per cent (1½%) provided for in the first paragraph of this Section 2 (b) shall be allocated and distributed to the persons entitled thereto as follows: (I) every distributor who makes a first sale or distribution of motor fuel to any person described in (2) above after setting out the tax separately on the manifest at the rate of four cents (4¢) per gallon as required by Section 9 (b) of this Article shall deduct one per cent (1%) from the amount of such tax and the balance shall be the amount of tax such distributor shall be entitled to collect from such purchaser and (II) any person described in (2) above who makes a sale or distribution of motor fuel to any person described in (3) above after setting out the tax separately on the manifest at the rate of four cents (4¢) per gallon as required by Section 9 (b) of this Article shall deduct one-half (½) of one per cent (1%) from the amount of such tax and the balance shall be the amount of tax such person shall be entitled to collect from such purchaser. As amended Acts 1953, 53rd Leg., p. 735, ch. 289, § 1.

1 Article 7065b—13.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 7065b—13. Refunds; applications; records; license; invoice of exemption; affidavit; fire or other accident; sales to United States Government; Highway Motor Fuel Tax Fund

(b) Any person (except as hereinafter provided), who shall use motor fuel for the purpose of operating or propelling any stationary gasoline engine, motorboat, aircraft, or tractor used for agricultural purposes, or for any other purpose except in a motor vehicle operated or in-

tended to be operated upon the public highways of this State, and who shall have paid the tax imposed upon said motor fuel by this Article, either directly or indirectly, shall, when such person has fully complied with all provisions of this Article and the rules and regulations promulgated by the Comptroller, be entitled to reimbursement of the tax paid by him less one and one-half per cent (1½%) allowed distributors, wholesalers and jobbers, and retailers under the provisions of Section 2 (b) of this Article.[1] Provided, however, no tax refund shall be paid to any person on motor fuel used in any construction or maintenance work which is paid for from any State funds to which motor fuel tax collections are allocated or which is paid jointly from any such State funds and Federal funds, except that when such fuel is used in maintenance of way machines, or other equipment of a railroad, operated upon stationary rails or tracks, then such railroad shall be entitled to a tax refund on such fuel. As amended Acts 1953, 53rd Leg., p. 735, ch. 289, § 2.

(n) So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided for herein, and if a specific amount be necessary then there is hereby appropriated and set aside for said purpose the sum of Two Hundred Thousand Dollars ($200,000), or so much thereof as may be necessary. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the one and one-half per cent (1½%) deducted originally by the distributor upon the first sale or distribution of the motor fuel shall be deducted in computing the refund. The Comptroller shall deduct fifty cents (50¢) from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund, which said filing fee shall be set aside for the use and benefit of the Comptroller in the administration and enforcement of this Article, as well as for the payment of expenses in furnishing the form of invoice of exemption and other forms provided for herein, and the same is hereby appropriated for such purpose. All such filing fees shall be paid into the State Treasury and shall be paid out on vouchers and warrants in such manner as may be prescribed by law. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXII (§ 4); Acts 1953, 53rd Leg., p. 735, ch. 289, § 3.

1 Article 7065b—2(b).

1953 amendment effective 90 days after May 27, 1953, date of adjournment.

Art. 7072. Repealed. Acts 1953, 53rd Leg., p. 1010, ch. 414, § 1. Eff. May 22, 1953

CHAPTER EIGHT—COLLECTION AND COLLECTOR

Art. 7258a. Tax receipt as evidence of payment

Section 1. On and after October 1, 1953, the Tax Collector or his deputy of any county in this State, or any city or political subdivision or tax assessing district within any such county shall, upon request, issue a certificate showing the amount of taxes, interest, penalty and costs due, if any, on the property described in said certificate. A charge of not to exceed One Dollar ($1) may be made for each such certificate issued. When any certificate so issued shows all taxes, interest, penalty and costs on the property therein described to be paid in full to and including the year therein stated, the said certificate shall be conclusive evidence of the full payment of all taxes, interest, penalty and costs due on the prop-

erty described in said certificate for all years to and including the year stated therein. Said certificate showing all taxes paid shall be admissible in evidence on the trial of any case involving taxes for any year or years covered by such certificate, and the introduction of the same shall be conclusive proof of the payment in full of all taxes, interest, penalty and costs covered by the same.

Sec. 1(a). The provisions of this Act shall be applicable only in suits where the State of Texas or any political subdivision thereof sues for unpaid taxes. Such certificate shall not be conclusive in suits in which the title for land is involved in any manner in suits between private citizens. As amended Acts 1953, 53rd Leg., p. 1052, ch. 436, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the amendatory Act of 1953 repealed conflicting laws and parts of laws.

Art. 7298. 7662 Limitation not available

No delinquent taxpayer shall have the right to plead in any court or in any manner rely upon any Statute of Limitation by way of defense against the payment of taxes due from him or her to the State, or any county, city, town, Navigation District, Drainage District, Road District, Levee Improvement District, Reclamation District, Irrigation District, Water Improvement District, Water Control and Improvement District, Water Control and Preservation District, Fresh Water Supply District, School District or other taxing authority; provided that this law shall not apply to collection of delinquent school taxes assessed prior to July 1, 1941; and provided further that no suit shall be brought for the collection of delinquent personal property taxes of any taxing authority unless instituted within four (4) years from the time the same shall become delinquent. As amended Acts 1951, 52nd Leg., p. 244, ch. 142, § 1; Acts 1953, 53rd Leg., p. 1045, ch. 432, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER TEN—DELINQUENT TAXES

Art. 7331. 7691 Fees of tax collector

For calculating and preparing redemption certificates and receipts, reporting and crediting redemptions, posting Comptroller's redemption numbers on the delinquent tax record or annual delinquent list, mailing certificates of redemption to taxpayers after approval by the Comptroller, and for issuing receipts or certificates of redemption for property shown on the annual delinquent list, the tax collector shall be entitled to a fee of One Dollar ($1) for each correct assessment of land to be sold, except that if the total amount of said costs so permitted exceeds ten per cent (10%) of the total amount of the taxes, interest and penalties due before assessing any such costs, then the total cost allowable shall be limited to ten per cent (10%) of such total amount of the taxes, interest and penalties, or One Dollar ($1) whichever is the larger, said fee to be taxed as costs against the delinquent. Correct assessment as herein used means the inventory of all properties owned by an individual for any one (1) year. Provided, that in no case shall the State or county be liable for said fee. It is not intended by this Act to any way amend, repeal or affect any part of House Bill No.406, Acts, Regular Session of the Fifty-second Legislature.[1] For performing all duties relating to the collection of delinquent taxes on real estate for which no compensation is otherwise provided the

tax assessor-collector shall receive five per cent (5%) of all delinquent taxes collected by him. As amended Acts 1953, 53rd Leg., p., 883, ch. 362, § 1.

1 Article 7336f.

Emergency. Effective June 8, 1953.

Art. 7336f. Remission of delinquent taxes, compilation of record of delinquent taxes not barred

This section not repealed by amendatory act, see art. 7331.

Art. 7345b. Suits for delinquent taxes by taxing units

Sale for less than adjudged value or aggregate of judgments in suit to party other than taxing unit prohibited; distribution of proceeds

Sec. 8. No property sold for taxes under decree in such suit shall be sold to the owner of said property, directly or indirectly or to anyone having an interest therein, or to any party other than a taxing unit which is a party to the suit, for less than the amount of the adjudged value aforesaid of said property or the aggregate amount of the judgments against the property in said suit, whichever is lower, and the net proceeds of any sale of such property made under decree of court in said suit to any party other than any such taxing unit shall belong and be distributed to all taxing units which are parties to the suit which by the judgment in said suit have been found to have tax liens against such property, pro rata and in proportion to the amounts of their respective tax liens as established in said judgment, but any excess in the proceeds of sale over and above the amount necessary to defray the costs of suit and sale and other expenses hereinabove made chargeable against such proceeds, and to fully discharge the judgments against said property, shall be paid by the sheriff or constable making the sale to the clerk of the court out of which execution or other final process issued to be retained and disposed of by him as follows:

Such excess funds shall be retained by the clerk of the court for a period of three (3) years from the date received, unless otherwise ordered by the court, after which time he shall forward such excess funds to the State Treasurer, who shall hold the same in trust to be paid to the owner against whom said taxes were assessed or the heirs or legal representative of a deceased owner. The clerk shall note upon the execution docket in each such case the amount of such excess funds, the date received by him, and the date transmitted to the State Treasurer, and shall accompany such remittance with a statement upon a form to be prescribed by the Comptroller showing the style and number of the case, the court from which execution issued, which statement shall be filed and kept by the Treasurer and a duplicate thereof shall be forwarded to the Comptroller, who shall also keep an account of such excess funds transmitted to the Treasury.

At any time within four (4) years from the date such excess funds are forwarded to the State Treasurer by the clerk of the court, anyone claiming the same may file a petition in the case out of which execution or other final process issued, setting forth in said petition the basis upon which claimant claims such excess funds, and the court shall set the same for hearing. A copy of such petition shall be served on the County or District Attorney of the county, at least twenty (20) days prior to the date of hearing, and a copy of such petition shall be forwarded to the State Treasurer and the Comptroller.

The County Attorney, or District Attorney if there be no County Attorney, of such county, shall represent the State at such hearing.

If the court shall find that such claimant is entitled to recover such excess funds, it shall make an order directing the Comptroller to issue his warrant on the Treasury against such trust funds for the payment of same, but without interest or cost; a copy of which order under the seal of the court shall be sufficient voucher for issuing such warrant.

After expiration of four (4) years from date such excess funds are received by the Treasurer he shall transfer the same from the trust fund to the general revenue fund unless there is then pending a petition by a claimant of such excess funds not acted upon, and if such claimant has not within four (4) years as herein provided filed a petition for such excess funds, the same shall be forever barred, and no claim shall be thereafter filed or allowed.

This Act shall apply to and govern the handling and disposition of excess funds arising from delinquent tax sales in the hands of the District Clerk or the State Treasurer at the effective date of this Act. The District Clerk shall submit to the State Treasurer all such excess funds which have been in his hands three (3) years or more prior to the effective date of this Act, but the District Clerk shall have thirty (30) days from the effective date of this Act to comply herewith, and such excess funds may be claimed within four (4) years from the effective date of this Act in the same manner as such funds transmitted to the State Treasurer under the terms of this Act after its effective date.

After the expiration of four (4) years from the effective date of this Act such excess funds remaining in the trust fund, unless a petition is then pending claiming such funds, the State Treasurer shall transfer all of such unclaimed funds from the trust fund to the general revenue fund and thereafter the claim for such funds shall be forever barred and no claim shall be thereafter filed or allowed. As amended Acts 1953, 53rd Leg., p. 391, ch. 108, § 1.

Emergency. Effective May 8, 1953.

TITLE 127—VETERINARY MEDICINE AND SURGERY

Art.
7465a. Veterinary licensing act [New].

Arts. 7448–7465. Repealed. Acts 1953, 53rd Leg., p. 844, ch. 342, § 22. Eff. 90 days after May 27, 1953, date of adjournment

Art. 7465a. Veterinary licensing act

Short title

Section 1. This Act may be cited as "The Veterinary Licensing Act."

Definitions

Sec. 2. (a) As used in this Act, except where the context otherwise requires, "Veterinarian" means any person who is licensed to practice Veterinary Medicine by the Texas State Board of Veterinary Medical Examiners.

(b) Any person shall be deemed in the "Practice of Veterinary Medicine" who represents himself as engaged in the practice of veterinary medicine; or uses any words, letters or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, or any person who performs a surgical or dental operation or who diagnoses, treats, immunizes or prescribes any drug, medicine, application or veterinary appliance for any physical ailment, injury, deformity or condition of domestic animals, for compensation.

(c) "Board" means the State Board of Veterinary Medical Examiners.

(d) "Licensee" means any person holding a license to practice veterinary medicine issued by the Board.

(e) "Applicant" means any person requesting that the Board examine his qualifications for the practice of veterinary medicine or requesting the issuance or renewal of a license.

(f) "License" means license to practice veterinary medicine.

Exceptions to application of law

Sec. 3. The provisions of this Act shall not apply nor shall the following be construed as the practice of veterinary medicine:

(1) Treatment or caring for animals in any manner personally by the owner thereof, or by any employee of the owner thereof.

(2) Performance of the operation of male castration on domestic animals, or docking or earmarking of domestic animals.

(3) Performance of the operation of dehorning cattle, or the spaying of large animals, or operation in aid of the birth process in large animals.

(4) Drenching and spraying of domestic animals for internal or external parasites, or vaccination for black-leg, shipping fever, or sore mouth.

(5) Recommendation by a retail distributor of a medicine, remedy or insecticide which is adequately labeled and has been duly registered with the Texas State Department of Health as required by the Texas Livestock Remedy Act when the retail distributor is advised by the customer of the type of ailment which he wishes to treat.

(6) Treatment and caring for poultry and rabbits.

(7) Branding animals in any manner.

Necessity of license

Sec. 4. No person shall practice, offer or attempt to practice veterinary medicine in this State without first having obtained a valid license to do so from the Texas Board of Veterinary Medical Examiners.

State Board of Veterinary Medical Examiners

Sec. 5. The Governor shall, within thirty (30) days after this Act becomes effective, appoint six (6) persons who shall constitute a State Board of Veterinary Medical Examiners. Each member appointed to the Board shall have resided in the State of Texas and practiced veterinary medicine for six (6) years next preceding his appointment; be of good repute; and not be a member of the faculty of any veterinary medical college or of the veterinary medical department of any college or have a financial interest in such college. The term of office of each member of the Board shall be for six (6) years, except for those first appointed under this Act, and of those so appointed, the Governor shall designate two (2)

members who shall serve for terms of two (2) years; two (2) members who shall serve for terms of four (4) years; and two (2) members who shall serve for terms of six (6) years. Members appointed to fill vacancies resulting from death or resignation shall serve the unexpired term of the member who died or resigned, and the present members of the State Board of Veterinary Medical Examiners shall remain in office and perform their duties until the new Board members, provided for in this Act are appointed and have qualified. Each member of the Board created by this Act shall take the Constitutional Oath of Office and cause a copy of such oath, signed by the member, to be filed with the Secretary of State before entering into the duties of his office. Four (4) members of the Board shall constitute a quorum, and at its first meeting, and annually thereafter, the Board shall elect from its membership a president and such other officers as it deems necessary or convenient. Each member of the Board shall receive as compensation Ten Dollars ($10) per day for each day he is engaged in the duties of his office, together with the actual necessary expenses incurred in the performance of such duties.

Executive secretary and other personnel

Sec. 6. The Board may employ an executive secretary and such other persons as it deems advisable to carry out the purposes of this Act, and shall require the executive secretary, charged with the safekeeping of the moneys and proper disbursement of the veterinary fund provided for in this Act, to file with the Board a surety bond in an amount not less than Five Thousand Dollars ($5,000), conditioned on the faithful performance of the duties of his office.

Rules and regulations

Sec. 7. The Board may make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

Rules of professional conduct

Sec. 8. The Board may from time to time adopt, alter, or amend, rules of professional conduct consistent with this Act as prescribed in subsections (a) through (d) of Section 14, and appropriate to establish and maintain a high standard of integrity, skills and practice in the profession of veterinary medicine. Prior to the adoption of any rule or amendment of a rule of professional conduct, the Board shall give notice of such proposed action by publishing the text of such proposed rule or amendment thereto in a newspaper of general circulation at least thirty (30) days in advance of any meeting called to consider the adoption of such rule or regulation, or change therein.

Issuance and renewal of licenses; record of registrants

Sec. 9. The Board shall issue and renew licenses for the practice of veterinary medicine as provided for in this Act, and shall keep a record in which shall be registered the name and residence or place of business of all persons licensed to practice veterinary medicine in this State.

Qualifications for license

Sec. 10. The following persons are qualified to be licensed veterinarians: (a) Any person not previously licensed in this State is qualified to be licensed, provided:

(1) He is of good moral character;

(2) he is a citizen of the United States;

(3) he is at least twenty-one (21) years of age;

(4) he is a graduate of a reputable school or college of veterinary medicine as approved by the Board;

(5) he successfully completes the examination conducted by the Board;

(6) the Board does not refuse issuance of the license as provided in Section 14 (Refusing Examination, License or Renewal).

(b) Any person licensed to practice veterinary medicine by authorities other than those in Texas, provided such license is in full force and effect, may in each instance apply for a license, and, in the discretion of the Board, be licensed under the terms of reciprocity agreements. The Board may arrange for reciprocity in license with the proper authorities of other states and territories of the United States having requirements substantially equal to those established by subsection (a) of this Section.

Previously issued licenses

Sec. 11. Any person in Texas holding a previously issued license which is still in effect on the effective date of this Act, shall be deemed licensed under this Act, entitled to practice veterinary medicine, and subject to the provisions of this Act applicable to licensees.

Meetings and examinations

Sec. 12. The Board shall hold regular meetings at least twice each year for the holding of examinations as provided in this Act, at such times and places as it deems convenient for applicants for examinations. Notice of meetings for holding examinations shall be given by publication in such newspapers or periodicals as the Board may select, and the Board shall examine all qualified applications for examinations as follows:

(a) Examinations shall be on subjects and operations pertaining to veterinary medicine including veterinary anatomy, veterinary pathology, chemistry, veterinary obstetrics, sanitary science, veterinary practice, veterinary jurisprudence, veterinary physiology and bacteriology and such other subjects as are regularly taught in reputable schools of veterinary medicine.

(b) Examinations may be given orally, in writing, or a practical demonstration of the applicant's skill, or any combination of these as the Board may determine.

(c) Applicants shall demonstrate such standard of proficiency as the Board may determine is essential for a qualified veterinarian.

Expiration and renewal of licenses

Sec. 13. Licenses shall expire March 1st of each calendar year, and any licensee may renew his license on or before March 1st by making written application to the Board setting forth such facts as the Board may require, and by paying the required fee. Any person whose license expires, or has expired prior to the effective date of this Act, may, in the discretion of the Board, renew his license by making written application to the Board setting forth such facts as the Board may require, and by payment of annual renewal fees in arrears and an additional fee of Five Dollars ($5), provided, however, that the requirements governing the payment of the annual renewal fee and the penalty for late renewal shall

not apply to licensees who are on active duty with the Armed Forces of the United States of America, and are not engaged in private or civilian practice.

Revocation or suspension of license; refusal to examine applicant or issue or renew license; grounds

Sec. 14. The Board may revoke or suspend any license, may refuse to examine an applicant, to issue a license or to issue a renewal of a license, after notice and hearing as provided in Section 15 of this Act, or as provided by the rules of the Board, if it finds that an applicant:

(a) Has presented to the Board dishonest or fraudulent evidence of qualification; has been guilty of illegal fraud or deception in the process of examination, or for the purpose of securing a license;

(b) is chronically or habitually intoxicated or is addicted to drugs;

(c) has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;

(d) has been convicted of a felony involving moral turpitude under the laws of this or any other state or of the United States.

Procedure for revocation or suspension of license

Sec. 15. Proceedings by the Board for the suspension or revocation of a license to practice veterinary medicine shall be as follows:

(a) Proceedings may be instituted by any member of the Board or its employees or by any other person, by filing with the Board a sworn statement setting forth the grounds upon which the person presenting the statement believes the Board should revoke or suspend the license.

(b) Upon the filing of such statement the executive secretary shall cause such investigation to be made as he deems necessary to determine the existence of such grounds, and if the executive secretary is of the opinion that grounds for suspension or revocation of a license exist, he shall cause appropriate entries to be made on a hearing docket and shall fix a time and place for hearing as may be prescribed by the rules of the Board.

(c) The executive secretary shall cause notice of the hearing to be given the licensee, whose license is under consideration for suspension or revocation, not less than ten (10) days prior to the date fixed for hearing. Notice of hearing shall be served as is provided by law in civil cases in the District Courts of this State, and shall contain a brief statement of the statutory grounds upon which revocation or suspension of license is being considered; the date, time and place of hearing; and a statement that the licensee may appear and offer such evidence as is pertinent to the question of revocation or suspension of license.

(d) The Board shall conduct hearings under such rules as the Board may adopt, and may administer oaths and subpoena and compel attendance of witnesses, deemed by the Board or the licensee to have knowledge which would aid the Board in reaching a proper decision and for enforcement of this Act, in the same manner as the District Courts of this State in civil proceedings.

(e) The Board may, by a three-fourths vote of the members of the Board present, evidenced by the signatures of such members on the order, reprimand a licensee or order an accused licensee's license suspended for such time as the Board may determine, or order his license revoked.

Appeals

Sec. 16. Within thirty (30) days after issuance of an order by the Board suspending or revoking a license, or the refusal of the Board to examine qualifications, or refusal by the Board to issue or renew a license, the affected applicant or licensee may appeal such order or refusal to the district court of the county of his residence. And the trial in said court shall be de novo as in cases of appeal from justice court to county court in the State of Texas, and upon final hearing the court shall enter its judgment suspending or revoking said license or refusing to suspend or revoke said license as the court or jury may determine. Either party may appeal as in other civil cases.

Injunction against unlawful practice

Sec. 17. The Attorney General or the district attorney of the district shall institute proceedings to enjoin the practice of veterinary medicine in their respective jurisdictions, if the person sought to be enjoined is practicing veterinary medicine without a license; and the person sought to be enjoined has been convicted of unlawful practice of veterinary medicine under Section 18 of this Act. No injunction shall issue except after final trial on the merits, and procedure shall be the same as in other suits for injunction except as otherwise required by this Act. If on final trial it is shown that the defendant has been unlawfully practicing veterinary medicine, the court shall permanently enjoin the defendant from the unlawful practice of veterinary medicine. Remedy by injunction is cumulative of other remedies for prevention of unlawful practice of veterinary medicine.

Penalties

Sec. 18. (a) Any member or employee of the Board who issues a license other than as provided in this Act, or who gives an applicant for examination a list of questions to be propounded at the examination, shall be fined not less than Two Hundred Dollars ($200), nor more than One Thousand Dollars ($1,000).

(b) Any person who practices, offers or attempts to practice veterinary medicine in this State without first having complied with the provisions of this Act shall be fined not less than Twenty-five Dollars ($25), nor more than Two Hundred Dollars ($200). Each day of practicing, attempting or offering to practice is a separate offense.

Fees

Sec. 19. Applicants for examinations shall pay to the Board a fee of Twenty-five Dollars ($25), and an applicant for license under the reciprocal provisions of this Act shall pay to the Board a fee of Fifty Dollars ($50) at the time of application to the Board for such license. Licensees shall pay to the Board for annual renewal of licenses, a fee of not less than Five Dollars ($5), nor more than Twenty Dollars ($20) as determined by the Board, based upon the needs of the Board, and a licensee whose license has been lost or destroyed shall be issued a duplicate license after application and upon payment of a fee of Ten Dollars ($10).

Veterinary fund

Sec. 20. All fees collected by the Board 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 "Veterinary Fund," and all expenditures

from this fund shall be on order of the Board, on warrants issued by the State Comptroller for the purposes and in the amounts fixed by the Legislature in appropriation bills; except, however, for the first biennium from and after the effective date of this Act, the State Board of Veterinary Medical Examiners shall have power and authority to expend such funds as they now have, and to receive, collect and expend all such funds for the compensation and expenses of the Board members and employee salaries and other expenses for the administration and enforcement of this Act. On August 31st of each year, all money in excess of Twenty Thousand Dollars ($20,000) remaining in said "Veterinary Fund" shall revert to the General Revenue Fund of the State Treasury.

Payment of compensation, expenses and costs

Sec. 21. The compensation and expenses of Board members, the salaries and expenses of employees, and all other costs of the Board in the administration of this Act shall be paid from the Veterinary Fund created by this Act, and no moneys for such purposes shall be paid from the General Fund of this State. Acts 1953, 53rd Leg., p. 844, ch. 342.

Effective 90 days after May 27, 1953, date of adjournment.

Section 22 of the Act of 1953 repealed articles 7448–7465 of the Revised Civil Statutes and articles 1526–1532 of the Penal Code.

Title of Act:

An Act to provide for licensing of veterinarians and regulation of the practice of veterinary medicine; making an appropriation; repealing Title 127, Veterinary Medicine and Surgery, Articles 7448 through 7465, Revised Civil Statutes of Texas, 1925, and Articles 1526 through 1532 of the Penal Code of Texas, 1925; and declaring an emergency. Acts 1953, 53rd Leg., p. 844, ch. 342.

TITLE 128—WATER

I. IRRIGATION AND WATER RIGHTS

CHAPTER ONE—USE OF STATE WATER

1. PUBLIC RIGHTS

Art. 7466i. Sabine River Compact

Compact ratified; text of compact

Section 1. The Sabine River Compact entered into and signed at Logansport, Louisiana, on January 26, 1953, by Roy T. Sessums, Representative for the State of Louisiana, and Henry L. Woodworth and John W. Simmons, Representatives for the State of Texas, and approved by

Louis W. Prentiss, 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:

SABINE RIVER COMPACT

Entered Into by the States of
LOUISIANA
and
TEXAS

Logansport, Louisiana
January 26, 1953

SABINE RIVER COMPACT

The State of Texas and the State of Louisiana, parties signatory to this Compact (hereinafter referred to as "Texas" and "Louisiana", respectively, or individually as a "State", or collectively as the "States"), having resolved to conclude a compact with respect to the waters of the Sabine River, and having appointed representatives as follows:

For Texas: Henry L. Woodworth, Interstate Compact Commissioner for Texas; and John W. Simmons, President of the Sabine River Authority of Texas;

For Louisiana: Roy T. Sessums, Director of the Department of Public Works of the State of Louisiana;

and consent to negotiate and enter into the said Compact having been granted by Act of the Congress of the United States approved November 1, 1951 (Public Law No. 252; 82nd Congress, First Session), and pursuant thereto the President having designated Louis W. Prentiss as the representative of the United States, the said representatives for Texas and Louisiana, after negotiations participated in by the representative of the United States, have for such Compact agreed upon Articles as hereinafter set forth. The major purposes of this Compact are to provide for an equitable apportionment between the States of Louisiana and Texas of the waters of the Sabine River and its tributaries, thereby removing the causes of present and future controversy between the States over the conservation and utilization of said waters; to encourage the development, conservation and utilization of the water resources of the Sabine River and its tributaries; and to establish a basis for cooperative planning and action by the States for the construction, operation and maintenance of projects for water conservation and utilization purposes on that reach of the Sabine River touching both States, and for apportionment of the benefits therefrom.

It is recognized that pollution abatement and salt water intrusion are problems which are of concern to the States of Louisiana and Texas, but inasmuch as this Compact is limited to the equitable apportionment of the waters of the Sabine River and its tributaries between the States of Louisiana and Texas, this Compact does not undertake the solution of those problems.

ARTICLE I.

As used in this Compact:

(a) The word "Stateline" means the point on the Sabine River where its waters in downstream flow first touch the States of both Louisiana and Texas.

(b) The term "waters of the Sabine River" means the waters either originating in the natural drainage basin of the Sabine River, or appearing as streamflow in said River and its tributaries, from its headwater source down to the mouth of the River where it enters into Sabine Lake.

(c) The term "Stateline flow" means the flow of waters of the Sabine River as determined by the Logansport gauge located on the U. S. Highway 84, approximately four (4) river miles downsteam from the Stateline. This flow, or the flow as determined by such substitute gauging station as may be established by the Administration, as hereinafter defined, pursuant to the provisions of Article VII of this Compact, shall be deemed the actual Stateline flow.

(d) The term "Stateline reach" means that portion of the Sabine River lying between the Stateline and Sabine Lake.

(e) The term "the Administration" means the Sabine River Compact Administration established under Article VII.

(f) The term "Domestic use" means the use of water by an individual, or by a family unit or household for drinking, cooking, laundering, sanitation and other personal comforts and necessities; and for the irrigation of an area not to exceed one acre, obtained directly from the Sabine River or its tributaries by an individual or family unit, not supplied by a water company, water district or municipality.

(g) The term "stock water use" means the use of water for any and all livestock and poultry.

(h) The term "consumptive use" means use of water resulting in its permanent removal from the stream.

(i) The terms "domestic" and "stock water" reservoir mean any reservoir for either or both of such uses having a storage capacity of fifty (50) acre feet or less.

(j) "Stored water" means water stored in reservoirs (exclusive of domestic or stock water reservoirs) or water withdrawn or released from reservoirs for specific uses and the identifiable return flow from such uses.

(k) The term "free water" means all waters other than "stored waters" in the Stateline reach including, but not limited to, that appearing as natural stream flow and not withdrawn or released from a reservoir for specific uses. Waters released from reservoirs for the purpose of maintaining stream flows as provided in Article V, shall be "free water". All reservoir spills or releases of stored waters made in anticipation of spills, shall be free water.

(l) Where the name of the State or the term "State" is used in this Compact, it shall be construed to include any person or entity of any nature whatsoever of the States of Louisiana or Texas using, claiming, or in any manner asserting any right to the use of the waters of the Sabine River under the authority of that State.

(m) Wherever any State or Federal official or agency is referred to in this Compact, such reference shall apply equally to the comparable official or agency succeeding to their duties and functions.

ARTICLE II.

Subject to the provisions of Article X, nothing in this Compact shall be construed as applying to, or interfering with, the right or power of

either signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligation under this Compact.

ARTICLE III.

Subject to the provisions of Article X, all rights to any of the waters of the Sabine River which have been obtained in accordance with the laws of the States are hereby recognized and affirmed; provided, however, that withdrawals, from time to time, for the satisfaction of such rights, shall be subject to the availability of supply in accordance with the apportionment of water provided under the terms of this Compact.

ARTICLE IV.

Texas shall have free and unrestricted use of all waters of the Sabine River and its tributaries above the Stateline subject, however, to the provisions of Articles V and X.

ARTICLE V.

Texas and Louisiana hereby agree upon the following apportionment of the waters of the Sabine River:

(a) All free water in the Stateline reach shall be divided equally between the two States, this division to be made without reference to the origin.

(b) The necessity of maintaining a minimum flow at the Stateline for the benefit of water users below the Stateline in both States is recognized, and to this end it is hereby agreed that:

(1) Reservoirs and permits above the Stateline existing as of January 1, 1953 shall not be liable for maintenance of the flow at the Stateline.

(2) After January 1, 1953, neither State shall permit or authorize any additional uses which would have the effect of reducing the flow at the Stateline to less than 36 cubic feet per second.

(3) Reservoirs on which construction is commenced after January 1, 1953, above the Stateline shall be liable for their share of water necessary to provide a minimum flow at the Stateline of 36 cubic feet per second; provided, that no reservoir shall be liable for a greater percentage of this minimum flow than the percentage of the drainage area above the Stateline contributing to that reservoir, exclusive of the watershed of any reservoir on which construction was started prior to January 1, 1953. Water released from Texas' reservoirs to establish the minimum flow of 36 cubic feet per second, shall be classed as free water at the Stateline and divided equally between the two States.

(c) The right of each State to construct impoundment reservoirs and other works of improvement on the Sabine River or its tributaries located wholly within its boundaries is hereby recognized.

(d) In the event that either State constructs reservoir storage on the tributaries below Stateline after January 1, 1953, there shall be deducted from that State's share of the flow in the Sabine River all reductions in flow resulting from the operation of the tributary storage and conversely such State shall be entitled to the increased flow resulting from the regulation provided by such storage.

(e) Each State shall have the right to use the main channel of the Sabine River to convey water stored on the Sabine River or its tributaries located wholly within its boundaries, downstream to a desired point of removal without loss of ownership of such stored waters. In the event that such water is released by a State through the natural channel of a tributary and the channel of the Sabine River to a downstream point of removal, a reduction shall be made in the amount of water which can be withdrawn at the point of removal equal to the transmission losses.

(f) Each State shall have the right to withdraw its share of the water from the channel of the Sabine River in the Stateline reach in accordance with Article VII. Neither State shall withdraw at any point more than its share of the flow at that point except, that pursuant to findings and determination of the Administration as provided under Article VII of this Compact, either State may withdraw more or less of its share of the water at any point providing that its aggregate withdrawal shall not exceed its total share. Withdrawals made pursuant to this paragraph shall not prejudice or impair the existing rights of users of Sabine River waters.

(g) Waters stored in reservoirs constructed by the States in the Stateline reach shall be shared by each State in proportion to its contribution to the cost of storage. Neither State shall have the right to construct a dam on the Stateline reach without the consent of the other State.

(h) Each State may vary the rate and manner of withdrawal of its share of such jointly stored waters on the Stateline reach, subject to meeting the obligations for amortization of the cost of the joint storage. In any event, neither State shall withdraw more than its pro-rata share in any one year (a year meaning a water year, October 1st to September 30th) except by authority of the Administration. All jointly stored water remaining at the end of a water year shall be reapportioned between the States in the same proportion as their contribution to the cost of the storage.

(i) Except for jointly stored water, as provided in (h) above, each State must use its apportionment of the natural stream flows as they occur and there shall be no allowance of accumulation of credits or debits for or against either State. The failure of either State to use the stream flow or any part thereof, the use of which is apportioned to it under the terms of this Compact, shall not constitute a relinquishment of the right to such use in the future; conversely, the failure of either State to use the water at the time it is available does not give it the right to the flow in excess of its share of the flow at any other time.

(j) From the apportionment of waters of the Sabine River as defined in this Article, there shall be excluded from such apportionment all waters consumed in either State for domestic and stock water uses. Domestic and stock water reservoirs shall be so excluded.

(k) Each State may use its share of the water apportioned to it in any manner that may be deemed beneficial by that State.

ARTICLE VI.

(a) The States through their respective appropriate agencies or subdivisions may construct jointly, or cooperate with any agency or instrumentality of the United States in the construction of works on the Stateline reach for the development, conservation and utilization for all beneficial purposes of the waters of the Sabine River.

(b) All monetary revenues growing out of any joint State ownership, title and interest in works constructed under Section (a) above, and accruing to the States in respect thereof, shall be divided between the States in proportion to their respective contributions to the cost of construction; provided however, that each State shall retain undivided all its revenues from recreational facilities within its boundaries incidental to the use of the waters of the Sabine River, and from its severally State-owned recreational facilities constructed appurtenant thereto.

(c) All operation and maintenance costs chargeable against any State ownership, title and interest in works constructed under Section (a) above, shall be assessed in proportion to the contribution of each State to the original cost of construction.

ARTICLE VII.

(a) There is hereby created an interstate administrative agency to be designated as the 'Sabine River Compact Administration' herein referred to as 'the Administration'.

(b) The Administration shall consist of two members from each State and of one member as representative of the United States, chosen by the President of the United States, who is hereby requested to appoint such a representative. The United States member shall be ex-officio chairman of the Administration without vote and shall not be a domiciliary of or reside in either State. The appointed members for Texas and Louisiana shall be designated within thirty days after the effective date of this Compact.

(c) The Texas members shall be appointed by the Governor for a term of two years; provided, however, that one of the original Texas members shall be appointed for a term to establish a half-term interval between the expiration dates of the terms of such members, and thereafter one such member shall be appointed annually for the regular term. One of the Louisiana members shall be ex-officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years; provided, that the first member so appointed shall serve until June 30, 1958. Each State member shall hold office subject to the laws of his State or until his successor has been duly appointed and qualified.

(d) Interim vacancy, for whatever cause, in the office of any member of the Administration shall be filled for the unexpired term in the same manner as hereinabove provided for regular appointment.

(e) Within sixty days after the effective date of this Compact, the Administration shall meet and organize. A quorum for any meeting shall consist of three voting members of the Administration. Each State member shall have one vote, and every decision, authorization, determination, order or other action shall require the concurring votes of at least three members.

(f) The Administration shall have power to:

(1) Adopt, amend and revoke by-laws, rules and regulations, and prescribe procedures for administration of and consistent with the provisions of this Compact;

(2) Fix and determine from time to time the location of the Administration's principal office;

(3) Employ such engineering, legal, clerical and other personnel, without regard to the civil service laws of either State, as the Administration may determine necessary or proper to supplement State-furnished assistance as hereinafter provided, for the performance of its functions under this Compact; provided, that such employees shall be paid by and be responsible to the Administration and shall not be considered to be employees of either State;

(4) Procure such equipment, supplies and technical assistance as the Administration may determine to be necessary or proper to supplement State-furnished assistance as hereinafter provided, for the performance of its functions under this Compact;

(5) Adopt a seal which shall be judicially recognized.

(g) In cooperation with the chief official administering water rights in each State and with appropriate Federal agencies, the Administration shall have and perform powers and duties as follows:

(1) To collect, analyze, correlate, compile and report on data as to water supplies, stream flows, storage, diversions, salvage and use of the waters of the Sabine River and its tributaries, and as to all factual data necessary or proper for the administration of this Compact;

(2) To designate as official stations for the administration of this Compact such existing water gauging stations (and to operate, maintain, repair and abandon the same), and to locate, establish, construct, operate, maintain, repair and abandon additional such stations, as the Administration may from time to time find and determine necessary or appropriate;

(3) To make findings as to the deliveries of water at Stateline as hereinabove provided, from the stream-flow records of the Stateline gauge which shall be operated and maintained by the Administration or in cooperation with the appropriate Federal agency, for determination of the actual Stateline flow unless the Administration shall find and determine that, because of changed physical conditions or for any other reason, reliable records are not obtainable thereat; in which case such existing Stateline station may with the approval of the Administration be abandoned and, with such approval, a substitute Stateline station established in lieu thereof;

(4) To make findings as to the quantities of reservoir storage (including joint storage) and releases therefrom, diversions, transmission losses and as to incident stream-flow changes, and as to the share of such quantities chargeable against or allocable to the respective States;

(5) To record and approve all points of diversion at which water is to be removed from the Sabine River or its tributaries below the Stateline; provided that, in any case, the State agency charged with the administration of the water laws for the State in which such point of diversion is located shall first have approved such point for removal or diversion; provided further, that any such point of removal or diversion once jointly approved by the appropriate State agency and the Administration, shall not thereafter be changed without the joint amendatory approval of such State agency and the Administration;

(6) To require water users at their expense to install and maintain measuring devices of approved type in any ditch, pumping station or other water diversion works on the Sabine River or its tributaries below the Stateline, as the Administration may determine necessary or proper for the purposes of this Compact; provided that the chief official of each State charged with the administration of water rights therein shall supervise the execution and enforcement of the Administration's requirements for such measuring devices;

(7) To investigate any violation of this Compact and to report findings and recommendations thereon to the chief official of the affected State charged with the administration of water rights, or to the Governor of such State as the Administration may deem proper;

(8) To acquire, hold, occupy and utilize such personal and real property as may be necessary or proper for the performance of its duties and functions under this Compact;

(9) To perform all functions required of the Administration by this Compact, and to do all things necessary, proper or convenient in the performance of its duties hereunder.

(h) Each State shall provide such available facilities, supplies, equipment, technical information and other assistance as the Administration may require to carry out its duties and function, and the execution and enforcement of the Administration's orders shall be the responsibility of the agents and officials of the respective States charged with the administration of water rights therein. State officials shall furnish pertinent factual and technical data to the Administration upon its request.

(i) Findings of fact made by the Administration shall not be conclusive in any court or before any agency or tribunal but shall constitute prima facie evidence of such facts.

(j) In the case of a tie vote on any of the Administration's determinations, orders or other actions subject to arbitration, then arbitration shall be a condition precedent to any right of legal action. Either side of a tie vote may, upon request, submit the question to arbitration. If there shall be arbitration, there shall be three arbitrators: one named in writing by each side, and the third chosen by the two arbitrators so elected. If the arbitrators fail to select a third within ten days, then he shall be chosen by the Representative of the United States.

(k) The salaries, if any, and the personal expenses of each member of the Administration, shall be paid by the Government which he represents. All other expenses incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the States. Ninety days prior to the Regular Session of the Legislature of either State, the Administration shall adopt and transmit to the Governor of such State for his approval, its budget covering anticipated expenses for the forthcoming biennium and the amount thereof payable by such State. Upon approval by its Governor, each State shall appropriate and pay the amount due by it to the Administration. The Administration shall keep accurate accounts of all receipts and disbursements and shall include a statement thereof, together with a certificate of audit by a certified public accountant, in its annual report. Each State shall have the right to make an examination and audit of the accounts of the Administration at any time.

(*l*) The Administration shall, whenever requested, provide access to its records by the Governor of either State or by the chief official of either State charged therein with the administration of water rights. The Administration shall annually on or before January 15th of each year make and transmit to the Governors of the signatory States, and to the President of the United States, a report of the Administration's activities and deliberations for the preceding year.

ARTICLE VIII.

(a) This Compact shall become effective when ratified by the Legislature and approved by the Governors of both States and when approved by the Congress of the United States.

(b) The provisions of this Compact shall remain in full force and effect until modified, altered or amended, or in the same manner as hereinabove required for ratification thereof. The right so to modify, alter or amend this Compact is expressly reserved. This Compact may be terminated at any time by mutual consent of the signatory States. In the event this Compact is terminated as herein provided, all rights then vested hereunder shall continue unimpaired.

(c) Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or of the United States of America, all other severable provisions of this Compact shall continue in full force and effect.

ARTICLE IX.

This Compact is made and entered into for the sole purpose of effecting an equitable apportionment and providing beneficial uses of the waters of the Sabine River, its tributaries and its watershed, without regard to the boundary between Louisiana and Texas, and nothing herein contained shall be construed as an admission on the part of either State or any agency, commission, department or subdivision thereof, respecting the location of said boundary; and neither this Compact nor any data compiled for the preparation or administration thereof shall be offered, admitted or considered in evidence, in any dispute, controversy, or litigation bearing upon the matter of the location of said boundary.

The term "Stateline" as defined in this Compact shall not be construed to define the actual boundary between the State of Texas and the State of Louisiana.

ARTICLE X.

Nothing in this Compact shall be construed as affecting, in any manner, any present or future rights or powers of the United States, its agencies, or instrumentalities in, to and over the waters of the Sabine River Basin.

IN WITNESS WHEREOF, the Representatives have executed this Compact in three counterparts hereof, each of which shall be and constitute an original, one of which shall be forwarded to the Administrator, General Services Administration of the United States of America and one of which shall be forwarded to the Governor of each State.

DONE in the City of Logansport, in the State of Louisiana, this 26th day of January, 1953.

(SIGNED—Henry L. Woodworth)
HENRY L. WOODWORTH, Representative for the State of Texas
(SIGNED—John W. Simmons)
JOHN W. SIMMONS, Representative for the State of Texas
(SIGNED—Roy T. Sessums)
ROY T. SESSUMS, Representative for the State of Louisiana

APPROVED:

(SIGNED—Louis W. Prentiss)
LOUIS W. PRENTISS, Representative of the United States.

Texas members of commission

Sec. 2. The Governor shall, with the advice and consent of the Senate, appoint two (2) Commissioners, who shall represent the State of Texas on the Commission provided for by Article VII of the Sabine River Compact, and who shall have the powers and discharge the duties prescribed by the terms of said Compact. Each 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; provided, however, that one (1) of the original Texas members shall be appointed for a term to establish a half-term interval between the expiration dates of the terms of such members, and thereafter one (1) such member shall be appointed annually for the regular term. Such Commissioners, so appointed, shall take oath of office as prescribed by the Constitution and, in addition thereto, they shall take oath to perform faithfully the duties incumbent upon them as such Commissioners. The Commissioners shall receive as fees of office the sum of Fifteen ($15.00) Dollars for each day of service necessary to discharge their duties under said Compact, plus actual expenses in the discharge of their duties under said Compact. The Commissioners shall have authority to meet and confer with the Louisiana members of the Commission at such points within the States of Texas and Louisiana, and elsewhere, as the Commission may see fit. They 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. They may incur necessary office expenses and other expenses incident to the proper performance of their duties and the proper administration of the provisions of the Sabine River Compact.

State Board of Water Engineers; duties

Sec. 3. The State Board of Water Engineers shall furnish the Commissioners appointed hereunder such factual data and information as it may have available and cooperate with the Commissioners in the performance of their duties.

Compact not binding until ratification and approval

Sec. 4. The provisions of the Sabine River Compact shall not become binding and obligatory until they shall have been duly ratified and approved by the Legislature of the State of Louisiana and by the Congress of the United States of America.

Notification as to ratification; certified copies of act

Sec. 5. It shall be the duty of the Governor of Texas to notify the Governor of Louisiana and the President of the United States of the ratification by the State of Texas of the Sabine River Compact; on request of the Governor, the Secretary of State shall furnish to the Governor of Louisiana and to the President of the United States a certified copy of this Act. Acts 1953, 53rd Leg., p. 89, ch. 63.

Emergency. Effective April 21, 1953.

Title of Act:

An Act approving and adopting the Sabine River Compact; authorizing the Governor to appoint two Commissioners to administer the provisions of the Compact; providing for the fees and necessary expenses of the Commissioners; providing cooperation by the State Board of Water Engineers; providing this Compact not binding until ratified by Louisiana and the Congress; providing for certain notification by the Governor; and declaring an emergency. Acts 1953, 53rd Leg., p. 89, ch. 63

2. BOARD OF WATER ENGINEERS

Art. 7467c. Seasonal and temporary permits

(1) Seasonal permits may be granted under the provisions of this Chapter relating to regular permits and shall be governed by the same restrictions and regulations, and the applicant shall pay the same fees in connection therewith; provided, that the right to take, use or divert water under a seasonal permit shall be limited to that portion or portions of the calendar year expressly stated in such permit; provided further, that the Board shall set forth in each seasonal permit granted such conditions as may be necessary to fully protect prior appropriations or vested rights on the stream.

(2) Under such rules and regulations governing notice and procedure as the Board may prescribe, temporary permits may be issued for beneficial purposes where the same will not interfere with or adversely affect prior appropriations or vested rights on the stream. Such temporary permits shall be subject to all the requirements of this Chapter relating to the use of water and shall have priorities as against each other as of the time of making application therefor. A temporary permit shall not be granted for a period exceeding three (3) months and shall not vest in the holder thereof any permanent right to the use of water and shall expire and be cancelled by the Board in accordance with the terms of the permit. A temporary permit may be granted by the Board under the provisions hereof, upon the payment of fees prescribed by the rules and regulations of the Board, but not to exceed Five Hundred Dollars ($500) for the issuance of any such permit. Added Acts 1953, 53rd Leg., p. 870, ch. 355, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 7470. Appropriation of water

The public waters of this State may be appropriated for any of the following purposes:

Irrigation, mining, milling, manufacturing, development of power, the construction and operation of waterworks for cities and towns, for stock-raising, public parks, game preserves, recreation and pleasure resorts, power and water supply for industrial purposes and plants and for domestic use. The amount or quantity of water to be appropriated for each purpose shall be specifically appropriated for such purpose or purposes, subject to the priority of appropriations as set forth in Article 7471. As amended Acts 1953, 53rd Leg., p. 869, ch. 354, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 3 of the Act of 1953 repealed article 7470a.

Art. 7470a. Repealed. Acts 1953, 53rd Leg., p. 869, ch. 354, § 3

Art. 7470b. Vested rights

No provision of this Act [1] shall ever be construed to abridge or affect any vested rights of owners of any lands riparian to the waters of the streams of this State, or streams forming a boundary of this State. Acts 1953, 53rd Leg., p. 869, ch. 354, § 2.

1 Article 7470 and this article.

Section 1 of the Act of 1953 amended article 7470.

Art. 7477. Board continued; members; chairman and other personnel; meetings; reports; legal counsel; review of rulings; cooperation; certified copies

(1) The Board of Water Engineers, created and constituted by the Acts of the Thirty-third Legislature, Chapter 171, General Laws, approved April 9, 1913, is hereby continued, and the members constituting such Board shall continue in office for the respective terms for which they were appointed, and until their successors are appointed and qualified. Said Board shall be composed of three (3) members, one of whom shall be appointed from each of the respective Water Divisions described in Article 7475 of the Revised Civil Statutes of Texas, 1925.

(2) The members of said Board shall be appointed by the Governor, by and with the advice and consent of the Senate, and each shall hold office for a term of six (6) years, and until his successor is appointed and qualified. No person shall be appointed a member of the Board who has not such technical knowledge and such practical experience and skill as shall fit him for the duties of the office. Each shall be a citizen of this State and an actual bona fide resident of the Water Division from which he is appointed. Each member of the Board shall qualify by taking the official oath of office prescribed by law, and by executing a bond payable to the State of Texas in the sum of Five Thousand Dollars ($5,000) to be approved by the Governor and conditioned upon the faithful performance of his duties under the law, and for the delivery to his successor or other officer appointed by the Governor to receive same, all moneys, books, and other property belonging to the State then in his hands or under his control, or with which he may be legally chargeable as a member of the Board. The premium on such bonds shall be paid out of funds made available to the Board by the Legislature. The members of the Board shall receive such annual salaries as may be prescribed by the Legislature in Appropriation Bills passed by it.

(3) The Governor shall designate one (1) member of said Board Chairman thereof. The Chairman shall be the Chief Administrative Officer of the Board with authority to issue notices of public hearings authorized by the Board, approve payrolls, and direct the general administration of the office of the Board. The Chairman may designate another member of the Board to act for him in his absence.

(4) The Board shall employ a Chief Engineer to serve at the will of the Board and may delegate to him such administrative duties and functions under the Board's supervision as it may deem proper for the efficient administration of the business of the Board. The Chief Engineer shall be a Registered Professional Engineer under the laws of the State of Texas and shall have had such practical experience and have such qualifications as the Board may require.

(5) The Chief Engineer shall receive such annual salary as may be prescribed by the Legislature in the Appropriation Bills passed by it.

(6) The Board may appoint such other employees as may be deemed necessary for the efficient performance of the duties authorized and required of it by law.

(7) The Board shall employ a Secretary at a salary to be fixed by the Legislature in Appropriation Bills passed by it, and who shall execute a bond in the sum of Ten Thousand Dollars ($10,000) to be approved by the Board and payable to it. Said bond shall be conditioned upon the faithful performance of the duties of the Secretary under the law, and for

the delivery to his successor or other employee designated by the Board to receive same, all moneys, books, and other property belonging to the State then in his hands or under his control, or with which he may be legally chargeable as Secretary of the Board. The premium on such bond shall be paid out of funds made available to the Board by the Legislature. The Secretary shall keep full and accurate minutes of all meetings of the Board and complete records of all its proceedings and transactions and of every ruling, order, and decision made by it. The Secretary shall be custodian of all files and records of the Board.

(8) The Board shall hold regular meetings on dates specified by order of the Board entered upon minutes. Special meetings may be held at such times and places as said Board may deem necessary and proper in the performance of its duties. Two (2) members of said Board shall constitute a quorum for the transaction of business at any regular or special meeting. A quorum shall be present at all times during any hearing conducted under the provisions of this Chapter, and the Chairman or a member of the Board designated by him shall conduct all such hearings.

(9) The Board shall make biennial reports in writing to the Governor, in which shall be included statements of its activities, the data and information collected, and such suggestions as to the amendment of existing laws and the enactment of new laws as it may deem desirable. All data collected by the Board shall be the property of the State of Texas.

(10) The members, Chief Engineer, and other employees of the Board shall be entitled to receive from the State their necessary traveling expenses while traveling on the business of the Board, upon an itemized statement, sworn to by the party who incurred the expense, and approved by the Board.

(11) The Attorney General shall be the legal advisor of the Board and shall represent it in litigation to which it may be a party; provided, that in addition, the Chairman, subject to approval of the Board and the written consent of the Attorney General of this State, may employ other legal counsel regularly, or may engage their services temporarily. Suits to enforce any provisions of this Chapter may be prosecuted in the courts of the State by the Attorney General.

(12) Any person affected by any ruling, order, decision, or other act of the Board, may, within one hundred and twenty (120) days after the date on which such act is performed, or, in case of a ruling, order, or decision, within one hundred and twenty (120) days after the effective date thereof, file a petition in an action to review, set aside, modify, or suspend such ruling, order, decision, or other act. Or any party affected by the failure of the Board to act in a reasonable time upon an application to appropriate water, or to perform with reasonable promptness any other duty imposed by this Chapter, may file a petition in an action to compel the Board to show cause why it should not be directed by the court to take immediate action. The venue in any or all such actions is hereby fixed exclusively in the District Court of Travis County, Texas.

(13) In all suits brought to review, modify, suspend or set aside rules and regulations, orders, decisions, or other acts of the Board, the trial shall be de novo, as that term is used and understood in an appeal from a Justice of the Peace Court to the county court. In such de novo trials, no presumption of validity or reasonableness or presumption of any character shall be indulged in favor of any such order, rule or regulation, but evidence as to the validity or reasonableness thereof shall be heard and

the determination in respect thereto will be made upon facts found therein, as in other civil cases, and the procedure for such trials and the determination of the orders and judgments to be entered therein shall be governed solely by the rules of law, evidence and procedure prescribed for the courts of this State by its Constitution, Statutes and rules of procedure applicable to the trial of civil actions. It is the intent of the Legislature that such trial shall be strictly de novo and that the decision in each such case shall be made independently of any action taken by the Board, upon a preponderance of the evidence adduced at such trial and entirely free of the so-called "substantial evidence" rule enunciated by the courts in respect to orders of other administrative or quasi-judicial agencies.

(14) Any party aggrieved by any judgment or order of a district court in any suit or judicial proceeding brought under the provisions of this Chapter shall have the right to a review on appeal to the Court of Civil Appeals, and by appeal or writ of error to the Supreme Court, as in other civil cases in which the district court has original jurisdiction, and subject to the Statutes and rules of practice and procedure in civil cases.

(15) The Board in making investigations, surveys and studies, and in performing other duties prescribed by this Chapter, may cooperate with agencies of the United States, with other agencies of this State or of any other State, with political subdivisions of the State and with persons.

(16) Upon the application of any person and upon payment of the fees prescribed therefor in the rules and regulations of the Board, the Board shall furnish certified copies of any of its proceedings or other official acts of record, or of any paper, map or document filed in the office of the Board, in connection with the appropriation of water, determination of water rights, or administration of water rights. Such certified copies under the hand of the Chairman or the Secretary, and the seal of the Board shall be admissable [1] in evidence in any court or administrative proceeding, in the same manner and with like effect as the original would be. As amended Acts 1953, 53rd Leg., p. 874, ch. 357, § 1.

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

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the Act of 1953 repealed Articles 7478–7487, 7490, 7491, 7512, 7564 and 7569.

Art. 7477a. Underground water and riparian rights not affected

It is expressly provided that the provisions of this Act relate only to surface water and do not, and shall not, affect underground water or riparian rights. Acts 1953, 53rd Leg., p. 874, ch. 357, § 3.

Arts. 7478–7487. Repealed. Acts 1953, 53rd Leg., p. 874, ch. 357, § 2. Effective 90 days after May 27, 1953, date of adjournment.

Art. 7488. Repealed. Acts 1953, 53rd Leg., p. 872, ch. 356, § 3. Effective 90 days after May 27, 1953, date of adjournment.

Rules and seal, see art. 7531.

Arts. 7490, 7491. Repealed. Acts 1953, 53rd Leg., p. 874, ch. 357, § 2. Effective 90 days after May 27, 1953, date of adjournment

Meetings of the board, see art. 7477, par. (8).

Art. 7492. Application in writing

Every person, association of persons, public or private corporation, political subdivision of the State, agency of the State or of the United States, who shall, after this Act shall take effect, desire to acquire the right to appropriate, for the purposes stated in this Chapter, unappropriated water of the State, shall, before commencing the construction, enlargement or extension of any dam, lake, reservoir or other storage work, or any ditch, canal, intake, headgate, pumping plant or other distributing works, or performing any work in connection with the storage, taking or diversion of water, make an application in writing to the Board for a permit to make such appropriation, storage or diversion. As amended Acts 1953, 53rd Leg., p. 878, ch. 358, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 7492a. Pending applications; vested rights; domestic and livestock purposes

Section 1–a. Nothing in this Act[1] shall affect or impair in any manner any notice of intent to file any application or applications for any permit or permits to impound water, or any presentation or any certified filings, or any one or all of them, now on file or pending before the Board of Water Engineers, by any person, association of persons, public or private corporation, political subdivision of the State, municipal corporation, agency of the State or of the United States.

Sec. 2. No provision of this Act shall ever be construed to abridge or affect any vested rights of owners of any lands riparian to the waters of the streams of this State, or streams forming a boundary of this State.

Sec. 2–a. Nothing in this Act shall be construed to repeal or as repealing the provisions of H.B.No.881 passed by the Fifty-third Legislature.[2] Provided that nothing in this Act shall require or necessitate the obtaining of a permit from the Board of Water Engineers or any other agency of the State for the construction of a dam or reservoir on private property to impound or contain not to exceed two hundred (200) acre feet for domestic and livestock purposes. Acts 1953, 53rd Leg., p. 878, ch. 358.

1 Article 7492 and this article.

2 Article 7500a.

Section 1 of the Act of 1953 amended art. 7492.

Art. 7493. Contents of application

Such application shall be in writing and sworn to; shall set forth the name and post office address of the applicant; the source of water supply; the nature and purposes of the proposed use and the amount of water to be used for each purpose; the location and description of the proposed dam, lake, reservoir, headgate, intake, pumping plant, ditch, canal or other work; the time within which it is proposed to begin construction and the time required for the application of the water to the proposed use; and, if such proposed use is for irrigation, a description of the lands proposed to be irrigated, and, as near as may be, the total acreage thereof. If applicant proposes to use water temporarily or during certain months or seasons of the year, the application shall state the period of temporary use or the months or seasons of the year the water will be used. As amended Acts 1953, 53rd Leg., p. 870, ch. 355, § 2.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 7500a. Permit

Anyone may construct on his own property a dam or reservoir to impound or contain not to exceed two hundred (200 acre-feet of water for domestic and livestock purposes without the necessity of securing a permit therefor. As amended Acts 1941, 47th Leg., p. 53, ch. 37, § 1; Acts 1953, 53rd Leg., p. 592, ch. 235, § 1.

Emergency. Effective May 27, 1953.

This section not repealed by act amending art. 7492, see art. 7492a.

Art. 7512. Repealed. Acts 1953, 53rd Leg., p. 874, ch. 357, § 2. Effective 90 days after May 27; 1953, date of adjournment

Attorney General as legal advisor, see art. 7477, par. (11).

Art. 7515. Contents of permit

Upon the approval of an application the Board shall issue a permit to the applicant. The permit shall give the applicant the right to take and use water only to the extent and purposes stated therein. Every permit issued by the Board shall be in writing, attested by the seal of the Board and shall contain substantially the following: The name of the applicant to whom issued; the date of the issuance thereof; the date of the filing of the original application therefor in the office of the Board; the use or purpose for which the appropriation of water is to be made; the amount or volume of water authorized to be appropriated for each purpose; a general description of the source of supply from which the appropriation is proposed to be made; if such appropriation is for irrigation, a description and statement of the approximate area of the land to be irrigated; the time within which the construction of work shall begin and the time within which the same shall be completed; and if such appropriation is for temporary or seasonal use, the permit shall state the period of such temporary use or the months or seasons of the year water will be used, together with such other data and information as the Board may prescribe. As amended Acts 1953, 53rd Leg., p. 870, ch. 355, § 3.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 7515a. Vested rights

No provisions of this Act shall ever be construed to abridge or affect any vested rights of owners of any lands riparian to the waters of the streams of this State, or streams forming a boundary of this State. Acts 1953, 53rd Leg., p. 870, ch. 355, § 4.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 7519a. Cancellation of unused permits or certified filings

All permits or certified filings for the appropriation and use of public waters granted by the Board of Water Engineers, or filed with said Board, more than ten (10) years prior to the effective date of this Act and under which no part of the water authorized to be withdrawn and appropriated has been put to beneficial use for a period of ten (10) consecutive years next preceding the effective date of this Act are hereby cancelled and shall be of no further force and effect.

Provided, however, that the Board shall send notice of such pending cancellation by registered mail, return receipt requested, to the

holder of any such permit or certified filing, at the last address shown by the records of the Board of Water Engineers at least ninety (90) days prior to the effective date of such cancellation. The failure of the Board of Water Engineers to cancel a permit or certified filing hereunder shall not be construed as validating any such permit or certified filing not cancelled. Added Acts 1953, 53rd Leg., p. 867, ch. 352, § 1.

Section 4 of the Act of 1953 provided that the effective date of the act should be January 1, 1955.

Art. 7519b. Certified filings defined; pending applications; vested rights

Sec. 2. That for the purpose of this Act,[1] the term "certified filings" shall mean any declaration of appropriation or affidavit filed with the State Board of Water Engineers under the provisions of Section 14 of Chapter 171, Acts of the Thirty-third Legislature of Texas, 1913,[2] and amendments thereto.

Sec. 2a. Nothing in this Act shall affect or impair, in any manner, any notice of intention to file any application or applications for any permit or permits to impound water or any presentations, or any certified filings or any one or more of them now on file or pending before the Board of Water Engineers, by any person, firm, association, public or private or municipal corporation.

Sec. 3. No provision of this Act shall ever be construed to abridge or affect any vested rights of owners of any lands riparian to the waters of the streams of this State, or streams forming a boundary of this State. Acts 1953, 53rd Leg., p. 867, ch. 352.

1 Article 7519a and this article.

2 Repealed Acts 1917, 35th Leg., p. 211, ch. 88, § 139.

Section 1 of the Act of 1953 amended Article 7519a.

Art. 7531. Rules and regulations; seal; enforcement of rules and conditions of permits and declarations of appropriations

(1) The Board of Water Engineers shall adopt rules and regulations, including modes of procedure, for the performance of the duties, powers, and functions prescribed and vested in it by this Chapter, and for the enforcement of its provisions, and shall have a seal, the form of which it shall prescribe. All such rules and regulations made for the administration and enforcement of the provisions of this Chapter, and that are reasonable and not in conflict herewith, shall be binding upon all persons affected by such provisions. The rules and regulations shall be printed, and copies shall be furnished to all interested persons upon application therefor, provided, that the Board, may at its discretion, make a reasonable charge therefor. After the rules and regulations shall have been adopted and printed, no amendment of an existing rule or no new rule shall be made effective until at least thirty (30) days after copy of same shall have been published one time in a newspaper of general circulation in each of the three Water Divisions described in Article 7475 of the Revised Civil Statutes of Texas, 1925.

Full authority is hereby given the Board to enforce by injunction, mandatory injunction or other appropriate remedy, in the courts of competent jurisdiction, any and all reasonable rules and regulations promulgated by it, which are not in conflict with this Chapter, and all of the terms and conditions, which are not in conflict with this Chapter, contained in declarations of appropriations (certified filings) and in permits

to appropriate water heretofore granted and which may hereafter be granted by it, under authority of law. As amended Acts 1953, 53rd Leg., p. 872, ch. 356, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 3 of the Act of 1953 repealed art. 7488. Section 4 provided that partial invalidity should not affect the remaining provisions of the Act.

Art. 7531a. Vested rights

No provision of this Act[1] shall ever be construed to abridge or affect any vested rights of owners of any lands riparian to the waters of the streams of this State, or streams forming a boundary of this State. Acts 1953, 53rd Leg., p. 872, ch. 356, § 2.

1 Article 7531 and this article.

3. REGULATION OF USE

Art. 7564. Repealed. Acts 1953, 53rd Leg., p. 874, ch. 357, § 2. Effective 90 days after May 27, 1953, date of adjournment

Review of decisions of board, see art. 7477, paragraphs (12) to (14).

Art. 7569. Repealed. Acts 1953, 53rd Leg., p. 874, ch. 357, § 2. Effective 90 days after May 27, 1953, date of adjournment

Certified copies of proceedings and papers, see art. 7477, par. (16).

4. POLLUTION

Art. 7621a. Policy of state; Water Pollution Advisory Council

Section 1. It is hereby declared to be the public policy of this State to conserve its waters for public water supplies, for domestic, municipal, agricultural, industrial, recreational, for the propagation of fish and aquatic life, and other beneficial uses by establishing a more comprehensive program in the public interest for the prevention, abatement, and control of pollution.

Sec. 2. There is hereby created a five (5) member Water Pollution Advisory Council to be composed of the State Health Officer, the Executive Secretary of the State Game and Fish Commission, the Chairman of the State Board of Water Engineers, the Chairman of the Railroad Commission, and the Attorney General, who shall serve as ex officio members of this Council. Each said ex officio member is hereby authorized to delegate to a personal representative from his respective office the authority and duty to represent him on said Council. The Council shall elect a Chairman and Secretary from its members.

The Council shall cooperate, consult and advise with other agencies, affected groups and industry, in effecting the purposes of this Act. The Council shall encourage and conduct studies and collect and disseminate information relating to water pollution and the control, prevention, and abatement thereof. The Council shall meet on the first Monday of each and every month in the City of Austin, Texas, and as often thereafter as may be decided upon by a majority vote of the Council.

Sec. 3. Nothing herein shall be construed to abridge or alter causes of action. Nor shall any provision of this Act be construed as estopping the State or any municipality or person, as riparian owners, or otherwise, in the exercise of their rights in equity or under common law or statutory law in suppressing nuisances or in abating pollution. Acts 1953, 53rd Leg., p. 868, ch. 353.

Emergency. Effective June 8, 1953.

Title of Act:

An Act declaring the public policy of this State with reference to the establishment of a more comprehensive program for the prevention, abatement, and control of stream pollution: creating a five (5) member Water Pollution Advisory Council and providing its function; and declaring an emergency. Acts 1953, 53rd Leg., p. 868, ch. 353.

CHAPTER TWO—WATER IMPROVEMENT DISTRICTS

Art. 7718c. Two and four year terms; election of directors

The Board of Directors of any water improvement district coming within the purview of this Section may, by resolution duly adopted by such Board, provide for two (2) and four (4) year terms of office for the directors of said district, and the holding of a general election on the second Tuesday of January each two (2) years for such purpose. At the first general election for the election of directors next succeeding the adoption of the aforesaid resolution, and held in any district coming within the purview of this Section, and availing itself of the provisions of this Section by the adoption of such resolution, there shall be elected five (5) directors for such district, which directors shall hold office for respective terms of two (2) years or four (4) years, to be determined in the following manner and by the following method: The three (3) directors receiving the highest vote shall serve for four (4) years. The other two (2) directors shall serve for two (2) years. At the second election of such district held for the election of directors, two (2) directors shall be elected to serve four (4) years. At the third election of such district held for said purpose, three (3) directors shall be elected to serve four (4) years, and thereafter there shall be an election every two (2) years of two (2) directors in one election, and three (3) directors in the next election in continuing sequence. Acts 1953, 53rd Leg., p. 457, ch. 143, § 1.

Emergency. Effective May 14, 1953.

The Act of 1953 purported to amend art. 7718 by adding a new article to be known as article 7718c.

II. LEVEES

CHAPTER SIX—LEVEE IMPROVEMENT DISTRICTS

1. ESTABLISHMENT

Art. 7987. Supervisors appointed

When a levee improvement district has been created under this Act, the court creating the same shall forthwith appoint by a majority vote three (3) supervisors for such district, who shall be known as

"district supervisors," and whose duties shall be as hereinafter provided. Said supervisors shall each receive for his services not more than Ten Dollars ($10) per day to be fixed by the Commissioners Courts for the time actually engaged in work for said district, and all expenses while so engaged, to be paid upon rendition of sworn accounts, approved by the county judge of the county having jurisdiction; and they shall hold their offices for two (2) years, and until their successors are appointed and qualified; unless sooner removed by a majority vote of the court of jurisdiction; and any vacancy in office shall be filled by a majority vote of the court having jurisdiction, which court shall continue from time to time to appoint supervisors in order that the board may always be full. As amended Acts 1953, 53rd Leg., p. 106, ch. 72, § 1.

Emergency. Effective April 21, 1953.

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:

Bexar County Metropolitan Water District: Acts 1953, 53rd Leg., p. 100, ch. 66.

Brazos River Conservation and Reclamation District: Acts 1953, 53rd Leg., p. 531, ch. 194.

Canadian River Municipal Water Authority: Acts 1953, 53rd Leg., p. 616, ch. 243.

Dallas County Water Supply and Control District: Acts 1953, 53rd Leg., p. 423, ch. 123.

Eastland County Water Supply District: Acts 1953, 53rd Leg., p. 923, ch. 384.

Harris County Sanitation Authority: Acts 1953, 53rd Leg., p. 941, ch. 399.

Jackson County Flood Control District: Acts 1953, 53rd Leg., p. 921, ch. 383.

Lower Rio Grande Authority: Acts 1953, 53rd Leg., p. 952, ch. 403.

Medina County Water Control and Improvement District No. 2: Acts 1953, 53rd Leg., p. 549, ch. 198.

North Waco Water Supply District: Acts 1953, 53rd Leg., p. 507, ch. 185.

Northeast Texas Municipal Water District: Acts 1953, 53rd Leg., p. 114, ch. 78.

Orange County Navigation and Port District: Acts 1953, 53rd Leg., p. 897, ch. 370.

Refugio County Water Control and Improvement District Number One: Acts 1953, 53rd Leg., p. 597, ch. 240.

San Antonio River Authority: Acts 1953, 53rd Leg., p. 82, ch. 60.

Upper Neches River Municipal Water Authority: Acts 1953, 53rd Leg., p. 990, ch. 412.

West Trinity Water, Sewer and Improvement District: Acts 1953, 53rd Leg., p. 432, ch. 124.

Wilbarger County Water Supply District: Acts 1953, 53rd Leg., p. 514, ch. 186.

Wise County Water Supply District: Acts 1953, 53rd Leg., p. 695, ch. 268.

V. NAVIGATION

CHAPTER NINE—NAVIGATION DISTRICTS

1. ORGANIZATION

1. ORGANIZATION

Art. 8198. Scope of district

Special Acts

Calhoun County Navigation District, see Acts 1953, 53rd Leg., p. 535, ch. 195.

Willacy County Navigation District, see Acts 1953, p. 959, 53rd Leg., ch. 404.

Art. 8217a. Modification of resolution after issuance of bonds; refunding bonds to retire bonds of different series

Section 1. Wherever any navigation district in this State shall adopt any resolution for the issuance of revenue bonds, provision may be made therein for the modification of the provisions of such resolution after the issuance of the bonds in such manner and pursuant to the consent of the holders of such percentage of the bonds as may have been provided in such resolution prior to the issuance of the bonds.

Sec. 2. Wherever any resolution shall have been heretofore adopted by any navigation district containing a provision of the kind referred to in Section 1 hereof and bonds have been issued pursuant thereto, such resolution and included provision are hereby ratified, validated and confirmed.

Sec. 3. Where any navigation district in this State has heretofore issued two series of bonds payable from the operating revenues of the district, the second of which is subordinate as to payment to the first of such series, such district is hereby authorized by appropriate resolution to provide for the issuance of refunding bonds for the purpose of retiring all or any part of either or both series of bonds, and to provide in such resolution either that all of the refunding bonds so issued shall enjoy parity of lien on the revenues pledged to their payment with each other and with the outstanding bonds not refunded, if any, or shall enjoy such priority of lien one over the other or over other outstanding bonds of the district, either or both, as the Board of Navigation and Canal Commissioners of the district may deem proper. If such refunding bonds are issued in such manner that none or less than all of the outstanding bonds of the first series of bonds are to be refunded and that the refunding bonds are to enjoy parity of lien with the bonds of the first series not refunded, then such refunding bonds may be issued only if there is contained in the resolution for such first series of bonds a provision of the kind referred to in Section 1 hereof, and if a bondholders' consent to the issuance thereof is obtained and executed to the amount and in the manner provided in the resolution authorizing such first series of bonds.

Refunding bonds issued hereunder may be either exchanged for like par amounts of the bonds to be refunded or may be sold and the proceeds

of sale so applied, provided that nothing herein contained shall be construed to permit the refunding of outstanding bonds without the consent of holders thereof unless such bonds shall have matured either under their terms or through call for redemption pursuant to a right of redemption reserved in such bonds.

Any refunding bonds so issued shall be authorized and issued in the manner provided by the act under authority of which such outstanding bonds were issued, as heretofore or hereafter amended, but such changes in the security thereof may be made as the Board of Navigation and Canal Commissioners may deem proper.

Sec. 4. If any word, phrase, clause, sentence, section, or part of this Act is held to be invalid by a court of competent jurisdiction, it shall not affect any other word, phrase, clause, sentence, section, or part of this Act. Acts 1953, 53rd Leg., p. 583, ch. 226.

Emergency. Effective May 27, 1953.

Section 5 of the Act of 1953 repealed conflicting laws and part of laws to the extent of the conflict.

Title of Act:

An Act authorizing certain provisions in resolutions authorizing the issuance of revenue bonds by navigation districts; validating resolutions heretofore adopted containing such provisions, authorizing the issuance of revenue refunding bonds by navigation districts; providing a severability clause; repealing conflicting laws; and declaring an emergency. Acts 1953, 53rd Leg., p. 583, ch. 226.

2. SPECIAL POWERS

A. PORT FACILITIES

Art. 8247e. Promotion and development funds in districts containing city of 300,000 population

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 Census, 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 two per cent (2%) 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. As amended Acts 1953, 53rd Leg., p. 107, ch. 73, § 1.

Emergency. Effective April 21, 1953.

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 dis-

trict. 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 two per cent (2%) of its gross income from operations in each calendar year in any such Promotion and Development Fund. As amended Acts 1953, 53rd Leg., p. 107, ch. 73, § 1.

3. GENERAL PROVISIONS

Art. 8263i. Navigation districts composed of parts of one or more of certain counties; use of public lands and waters; conveyances to United States

Section 1. Any navigation district created under the provisions of Chapter 5 of the Acts of the 39th Legislature in 1925 (Vernon's Texas Civil Statutes, Article 8263i)[1] composed of parts of one or more counties, one of which counties has one or more boundaries coincident with any part of the international boundary between the United States and the Republic of Mexico or is adjacent to any county which has one or more boundaries coincident with any part of the international boundary between the United States and the Republic of Mexico, is hereby granted and conveyed the free and uninterrupted use, liberty and easement in and to all the rivers, streams, bayous, arroyos, resacas, lakes, lagoons, bays, arms of the sea, beds, banks or shores thereof, mud flats or other lands covered or partly covered by the waters of any of the bays or other arms of the sea, and any other submerged land or lands owned by the State of Texas within the county or counties in which such district or districts are located and within the adjoining counties thereto, and along the route of any waterway, a part of which lies within such district, in order to connect such waterway with the Louisiana and Texas Intra-Coastal Canal Waterway now completed to Brownsville, Texas, for the purpose of navigation, conservation, reclamation, and flood control, in aid of navigation. Provided, nevertheless, that nothing in this Act shall be construed to affect or impair any vested rights heretofore granted by the State of Texas in and to such lands and waters; provided further, that nothing in this Act shall be construed to affect or impair private vested rights. As amended Acts 1953, 53rd Leg., p. 453, ch. 139, § 1.

1 Articles 8263h, 8263i.

Emergency. Effective May 14, 1953.

Section 2 of the amendatory Act of 1953 provided that partial invalidity should not affect other provisions or applications of the act which could be given effect without the invalid provision or application, and declared the provisions of the Act severable.

CHAPTER TEN—PILOTS

Art. 8274. 6309, 3800 Pilotage

The rate of pilotage, which may be fixed under Articles 8267 and 8269, on any class of vessels shall not, in any port of this State, exceed Five ($5.00) Dollars for each foot of water which the vessel at the time of piloting draws; and whenever a vessel, except of the classes below excepted, shall decline the services of a pilot, offered outside the bar, and shall enter the port without the aid of one, she shall be liable to the first pilot whose services she so declined for the payment of half pilotage; and any vessel which, after being brought in by a pilot, shall go out without employing one, shall be liable to the payment of half pilotage to the pilot who brought her in, or if she has come in without the aid of a pilot, though offered outside, she shall on so going out be liable for the payment of half pilotage to the pilot who had first offered his services before she came in; but if she has come in without the aid of a pilot, or the offer of one outside, she shall not, in case of going out without a pilot, be liable to half pilotage. At any port where vessels shall receive or discharge their cargoes at an anchorage outside of the bar, such vessel shall be liable to pilotage at the above rate to such anchorage, but shall not be liable for or compelled to pay pilotage from such anchorage to the open seas; and if any vessel bound from open sea to such anchorage, while under way, shall decline the services of a pilot, and shall afterward receive or discharge any portion of her cargo at such anchorage on the lighters or otherwise, she shall be liable for the payment of half pilotage at the above rate to such anchorage to the first pilot whose services shall have been tendered to and declined by her, but not liable for any pilotage from such anchorage to the open sea; and when a pilot takes charge of a vessel twenty miles outside of the bar, and brings her to it, he shall be entitled to one-fourth pilotage for such off-shore service, in addition to what he is entitled to recover for bringing her in, but if such offshore services be declined, no portion of said compensation shall be recovered. As amended Acts 1951, 52nd Leg., p. 252, ch. 148, § 1; Acts 1953, 53rd Leg., p. 61, ch. 48, § 1.

Emergency. Effective April 1, 1953.

VI. GENERAL PROVISIONS [NEW]

CHAPTER 11. IN GENERAL

Art.
8280—5. Water Resources Committee [New].
8280—6. Exclusion from conservation districts of lands within certain cities with less than 20,000 inhabitants [New].

Art. 8280—5. Water Resources Committee

Creation

Section 1. There is hereby created a Water Resources Committee.

Members; offices and equipment

Sec. 2. Such Committee shall consist of nine (9) members, who shall serve for terms of two (2) years, three (3) of whom shall be citizens of

the State and named by the Governor, three (3) of whom shall be members of the Senate appointed by the Lieutenant Governor, and three (3) of whom shall be members of the House of Representatives named by the Speaker of the House of Representatives. The names of the citizens appointed by the Governor shall be submitted to the Senate for confirmation. Said Committee shall at its first meeting select a Chairman from among its members so selected. Members of the Committee shall be paid reasonable expenses incurred by each member in attending such sessions. The Committee shall have its office and principal place of business in Austin, Texas, where its meetings shall be held unless it directs otherwise for specific occasions, and it shall meet then when called by order of the Chairman or by the majority of its members. Suitable offices and office equipment shall be provided by the State for the Committee in the City of Austin, Texas.

Personnel

Sec. 3. Subject to Section 9 hereof the Committee shall have the power to employ such clerical and technical assistance as it may deem necessary to perform its functions and shall employ a chief engineer and an administrator who shall be a licensed attorney at law versed in the water laws of this State and whose duties shall be those laid out by said Committee.

Duration and expiration

Sec. 4. The Water Resources Committee shall continue in existence for four (4) years from and after the effective date of this Act, and at the expiration of such period said Committee shall cease to function, and any unexpended funds appropriated to the use of said Committee shall return to the General Fund of the State. When said Committee shall expire by operation of law, all papers, documents, and records pertaining to its official actions shall be placed in a file for that purpose to be kept in the office of the State Board of Water Engineers, or its successors, as a part of the Permanent Official Records of the State of Texas.

Water policy and conservation program; reports; powers and duties

Sec. 5. The Water Resources Committee shall develop during said period of time from the data collected by it and under its direction a long-range water policy and conservation program for the entire State of Texas. A thorough and complete water resources inventory shall be taken, and a report shall be made to the Governor and to the Legislature with recommendations once each six (6) months during the existence of such Committee and a final report shall be made prior to the termination of the work of said Committee. The Committee shall have access to all public records pertaining to such subject, and all State public agencies are hereby directed to cooperate with and to furnish to said Committee all data collected by any of such agencies. The Committee shall have power to hold hearings and to subpoena witnesses for such purpose and may require any such witness to furnish any data not privileged to such Committee. Said Committee is directed to bring together the studies heretofore made by the Texas Water Code Committee, the Texas Section of the American Society of Civil Engineers, the Texas Legislative Council, the Texas Water Conservation Association, The University of Texas, A & M College, the State Board of Water Engineers, the Public Health Authorities, the United States Geodetic Survey, the United States Corps of Engineers, the United States Soil Conservation Administration, and any and all other agencies having information or having studied the subject of water policy and conservation; to relate and correlate such informa-

tion to the end that the Legislature of this State may adopt such laws as may be necessary for the development and conservation of the water resources of this State.

Acceptance of reports; donations; expenses; audits

Sec. 6. The Committee shall have authority to accept reports made by any other private or public agency and to receive donations to cover the expense of said work. The expenses of said Committee shall be accounted for annually, and the books of account of said Committee shall be audited by the State Auditor at least once annually during the existence of said Committee and a copy of such audit shall be filed with the Governor and with the Secretary of the House and the Senate of the Legislature of the State of Texas.

Recommendations

Sec. 7. The Committee is hereby directed to recommend necessary legislation to carry out its recommendations from time to time.

Engineers; pollution

Sec. 8. In undertaking the development of the long-range program for conservation and development of the water resources of this State, the Committee is hereby authorized subject to Section 9 to employ engineers on a contractual or a per diem basis. The Committee is further empowered and directed to develop and recommend the best means to mitigate the pollution of streams and underground water sources and to recommend suitable legislation with which to implement such policies and practices and to provide for the proper coordination among the several State Agencies involved in the prevention of such pollution.

Appropriations; expenditures

Sec. 9. There is hereby appropriated out of the contingent fund of the Fifty-third Legislature the sum of Ten Thousand Dollars ($10,000), or as much thereof as may be necessary, to accomplish the purposes set out herein; except, however, none of the funds herein appropriated shall be used to pay the expenses of the non-legislative members of said Committee. Such Committee shall not expend sums in excess of amounts so appropriated, other than donations or gifts. Disbursements from this appropriation shall be made on warrants issued by the State Comptroller based upon accounts approved by the Chairman of said Committee. Acts 1953, 53rd Leg., p. 879, ch. 359.

Effective 90 days after May 27, 1953, date of adjournment.

Section 10 of the Act of 1953 repealed conflicting laws to the extent of the conflict only.

Title of Act:

An Act creating a Water Resources Committee; providing for its membership; prescribing the tenure of office of its members; providing for its organization; prescribing its powers, duties, and functions; providing for the emoluments of its members; making the necessary appropriations; repealing all laws in conflict; and declaring an emergency. Acts 1953, 53rd Leg., p. 879, ch. 359.

Art. 8280—6. Exclusion from conservation districts of lands within certain cities with less than 20,000 inhabitants

Section 1. Whenever there are lands presently incorporated in, or subsequently annexed to and brought within the corporate limits of any incorporated city in this State which has a population of not less than twenty thousand (20,000) inhabitants according to the latest available Federal Census, and which city also has, within its corporate limits, lands

of at least three (3) conservation districts which are organized and existing under Article 16, Section 59a of the Constitution of Texas, and all of which districts are organized primarily for irrigation purposes, the owner of such lands common to both said city and one or more such districts shall have the right to have same excluded from and taken out of any one or more of said districts of which said lands form a part, by filing an application with the governing body of any said district requesting said land to be excluded from said district by reason of it being a part of an incorporated city, and said petition shall be granted upon proof of that fact, as a matter of right, by entering upon the minutes of said district an order excluding said lands from said district; and thereafter said land which is the subject of said petition and order, shall cease to be a part of said district and shall not be subject to any other charges, taxes or assessments by said district; provided, however, said land shall continue to be liable for and subject to its proportionate part of the lawful bonded indebtedness existing against said district at time of exclusion of said land.

Sec. 2. Whenever any territory shall be excluded from a district as herein provided and at the time of such exclusion said district shall owe any bonded indebtedness for the payment of which said excluded land is subject to lawful taxes, such excluded land shall not be released from the payment of its proportionate part of annual ad valorem taxes to pay said indebtedness, but said district shall continue to levy, assess and collect ad valorem taxes annually on such excluded property at the same rate as is levied on other lands remaining in said district, until such taxes so collected shall equal the share of the bonded indebtedness chargeable to said excluded land at time of its exclusion. 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 its said proportionate part of said indebtedness. Nothing herein shall be construed or have effect to prevent the owner of any lands excluded from paying in full, at any time the proportionate share of said indebtedness, principal and interest, chargeable against said land so excluded. Acts 1953, 53rd Leg., p. 931, ch. 390.

Emergency. Effective June 8, 1953.

TITLE 130—WORKMEN'S COMPENSATION LAW

PART 4

PART I

Art. 8306. Damages and compensation for personal injuries

Accrual of compensation; medical aid, etc.

Sec. 6. No compensation shall be paid under this law for an injury which does not incapacitate the employee for a period of at least one week from earning full wages, but if incapacity extends beyond one week compensation shall begin to accrue on the eighth day after the injury. The medical aid, hospital services, chiropractic services, and medicines, as provided for in Section 7 hereof, shall be supplied as and when needed and according to the terms and provisions of said Section 7. If incapacity does not follow at once after the infliction of the injury or within eight days thereof but does result subsequently, compensation shall

begin to accrue with the eighth day after the date incapacity commenced. In any event the employee shall be entitled to the medical aid, hospital service, chiropractic service, and medicines provided in this law. Provided further, that if such incapacity continues for four (4) weeks or longer, compensation shall be computed from the inception date of such incapacity. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Medical aid, hospital services, chiropractic services, and medicines

Sec. 7. During the first four weeks of the injury, dating from the date of its infliction, the association shall furnish reasonable medical aid, hospital services, nursing, chiropractic services, and medicines. During the fourth or any subsequent week, upon application of the attending physician or chiropractor certifying the necessity therefor to the Board and to the association, the Board may authorize additional medical attention, nursing and chiropractic services not to exceed one (1) week, unless at the end of such additional week the attending physician or chiropractor shall certify to the necessity for another week of medical or chiropractic attention or nursing or so much thereof as may be needed, but in no event shall such medical attention, nursing, or chiropractic services be authorized for a period longer than ninety-one (91) days from date of injury. If the association fails to so furnish same as and when needed during the time specified after notice of the injury to the association or subscriber, the injured employee may provide said medical aid, nursing, hospital services, chiropractic services, and medicines at the cost and expense of the association. The employee shall not be entitled to recover any amount expended or incurred by him for said medical aid, nursing, hospital services, chiropractic services, or medicines, nor shall any person who supplied the same be entitled to recover of the association therefor, unless the association or subscriber shall have had notice of the injury and shall have refused, failed or neglected to furnish it or them within a reasonable time. At the time of the injury or immediately thereafter, if necessary, the employee shall have the right to call in any available physician, surgeon, or chiropractor to administer first-aid treatment as may be reasonably necessary at the expense of the association. During the fourth or any subsequent week of continuous total incapacity requiring the confinement to a hospital, the association shall, upon application of the attending physician, surgeon or chiropractor certifying the necessity therefor to the Industrial Accident Board and to the association, furnish such additional hospital services as may be deemed necessary not to exceed one (1) week, unless at the end of such additional week the attending physician or chiropractor shall certify to the necessity for another week of hospital services or so much thereof as may be needed, but in no event shall such hospital services be authorized for a period longer than one hundred and eighty (180) days from date of injury. Such additional hospital services as are herein provided shall not be held to include any obligation on the part of the association to pay for medical, nursing or surgical services not ordinarily provided by hospitals as a part of their services. As amended Acts 1947, 50th Leg., p. 521, ch. 307, § 1; Acts 1953, 53rd Leg., p. 493, ch. 178, § 2.

Change in medical aid, hospital services, chiropractic services and medicines

Sec. 7a. If it be shown that the association is furnishing medical aid, hospital services, chiropractic services, and medicines provided for by Section 7 hereof in such manner that there is reasonable ground for believing that the life, health or recovery of the employee is being endangered or impaired thereby, the Board may order a change in the

physician, chiropractor or other requirements of said section. If the association fails promptly to comply with such order after receiving it, the Board may permit the employee or some one for him to provide the same at the expense of the association under such reasonable regulations as may be provided by said board. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 3.

Fees and charges for medical aid, hospital services, chiropractic services or medicines

Sec. 7b. All fees and charges under Section 7 and 7a hereof shall be fair and reasonable, shall be subject to regulation of the Board and shall be limited to such charges as are reasonable for similar treatment of injured persons of a like standard of living where such treatment is paid for by the injured person himself or someone acting for him. In determining what fees are reasonable, the Board may also consider the increased security of payment afforded by this law. Where such medical aid, hospital service, chiropractic service or medicines are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting the same, and the amount so paid shall be promptly reported to the Board. As amended Acts 1953, 53rd Leg., p. 492, ch. 177, § 4.

Physicians or chiropractors employed by subscriber or association

Sec. 12f. In all cases where a subscriber or the association has in his or its employ a physician or physicians, a chiropractor or chiropractors, regularly paid in any manner whatsoever by such subscriber or association to administer to or treat injured employees, the name or names of such physicians or chiropractors at the date of employment of the same shall be filed with the Board together with a copy of the contract of such employment. If the contract of such physician or physicians, chiropractor or chiropractors is not in writing, then the same shall be reduced to writing and a copy thereof filed with the Board. Such contract shall state fully the extent and scope of the employment and the compensation to be paid such physicians or chiropractors. If the association or subscriber willfully fails or refuses to comply with this provision of this law, then an injured employee or any person acting for him shall have the right to provide hospital services, chiropractic services, medical aid and medicine for said injured employee, at the expense of and the same shall be charged to the association, and the subscriber or association shall notify the employee at or before the time of injury what physician or physicians, chiropractor or chiropractors are contracted with to attend and render professional services to his or its employees. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 5.

Section 15 of the amendatory Act of 1953 provided that partial unconstitutionality should not affect the remaining portions of the Act.

City, town and village employees, application of this article, see section 6 of Art. 8309e.

PART 2

Art. 8307. Industrial Accident Board

Rules: Physical examination; suspension of compensation; procedure and powers

Sec. 4. The Board may make rules not inconsistent with this law for carrying out and enforcing its provisions, and 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, a chiropractor or chiropractors authorized to practice under the laws of this State. If the employee or the association requests, he or it shall be entitled to have a physician or physicians, chiropractor or chiropractors 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, chiropractic service 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 association 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.

When authorized by the Board, the Association shall have the privilege of having any injured employee examined by a physician or physicians, chiropractor or chiropractors 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 Association 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 or chiropractor of his own selection present to participate in such examination. Provided, when such examination is directed by the Board at the request of the Association, the Association shall pay the fee of the physician or chiropractor selected by the employee, such fee to be fixed by the Board.

Process and procedure shall be as summary as may be under this law. The Board or any member thereof shall have the power to subpœna 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, punish for contempt in the same manner and to the same extent as a District Court may do, and to bar persons guilty of unethical or fraudulent conduct from practicing before the Board. 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 law. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 6.

Effective 90 days after May 27, 1953, date of adjournment.

PART 3

Art. 8308. Employers' Insurance Association

Chiropractic service defined; chiropractor defined

Sec. 1A. The term "chiropractic service" shall include, but shall be limited to, chiropractic as defined by the Laws of this State and the term "chiropractor" shall include, but be limited to chiropractors licensed by the Texas Board of Chiropractic Examiners whose licenses are properly registered and in good standing as required by the Laws of this State. Added Acts 1953, 53rd Leg., p. 493, ch. 178, § 6a.

Effective 90 days after May 27, 1953, date of adjournment.

Sec. 16. The board of directors may, from time to time, by vote fix the amount to be paid as dividends to its subscribers, in such manner and under such plan as shall be determined by said directors in the exercise of their powers and discretion. No such dividend shall take effect until the same has been approved by the Board of Insurance Commissioners, and no such dividend shall be approved until adequate reserves have been provided by the Association, said reserves to be computed on the same basis as required for other classes of stock or mutual companies, reciprocals, inter-insurance exchanges, or Lloyds' associations under the laws of this State and applicable rules of the Board of Insurance Commissioners. Dividends and assessments may be fixed by and for groups, but the entire assets of the Association, including the liability of the subscriber to assessment within the limits fixed by the bylaws or by special agreement in writing as authorized, shall be subject to the payment of any approved claim for compensation against the Association. As amended Acts 1953, 53rd Leg., p. 55, ch. 44, § 1.

Emergency. Effective March 26, 1953.

Sec. 18. Repealed Acts 1953, 53rd Leg., p. 716, ch. 279, § 4. Eff. July 1, 1953.

Section 2 of Acts 1953, 53rd Leg., p. 55, ch. 44, repealed inconsistent laws or parts of laws, Section 3 related to the effect of partial invalidity.

PART 4

Art. 8309. Definitions and general provisions

Insurance companies may insure

Sec. 2. Any insurance company, which term shall include mutual and reciprocal companies, lawfully transacting a liability or accident business in this State, shall have the same right to insure the liability and pay the compensation provided for in Part I of this law, and when such company issues a policy conditioned to pay such compensation, the holder of such policy shall be regarded as a subscriber so far as applicable under this law, and when such company insures such payment of compensation it shall be subject to the provisions of Parts I, II and IV [1] and of Sections 10, 17, 18a and 21 of Part III of this law.[2] Such company may have and exercise all of the rights and powers conferred by this law on the association created hereby, but such rights and powers shall not be exercised by a mutual or reciprocal organization unless such organization has at least fifty (50) subscribers who have not less than two thousand (2,000) employees. Nothing contained in this or any other law shall require an insurance company or the association to issue a policy to any applicant applying for coverage under this law, except as provided in Article 5.76 of the Insurance Code of Texas. As amended Acts 1953, 53rd Leg., p. 716, ch. 279, § 3.

1 This article and articles 8306, 8307.

2 Article 8308.

Emergency. Effective July 1, 1953.

City, town and village employees, application of this article, see section 6 of art. 8309e.

Art. 8309a. Hearing of claim by Industrial Accident Board; postponement of hearing

When an injured employee of a subscriber under the Workmen's Compensation Act has sustained an injury in the course of employment and filed claim for compensation and given notice as required by law, the Industrial Accident Board shall hear his claim for compensation within a reasonable time. Provided, however, when such injured employee is being paid compensation as provided in the Workmen's Compensation Act, and the Insurance Association is furnishing either hospitalization, chiropractic service or medical treatment to such employee, the Industrial Accident 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. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 7.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 8309b. Agricultural and Mechanical College Directors, Workmen's compensation insurance for employees under

Laws Governing

Sec. 7. Unless otherwise provided herein, Sections 1; 6; 7; 7b; 7c; 8; 8a; 8b; 9; 10; 11; 11a; 12; 12a; 12b; 12c; 12d; 12e; 12f; 12i; 13; 15; 15a; 16; 17; 19; 20; 21; 22; 23; 24; 25; 26; and 27; of Article 8306, Revised Civil Statutes of Texas, 1925, as amended, and Sections 4a; 6a; 11; 12; 13; and 14; of Article 8307, of the Revised Civil Statutes of Texas, 1925, as amended, and Sections 4, and 5, of Article 8309, of the Revised Civil Statutes of Texas, 1925, as amended, are 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, as amended, or herein amended, 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; Acts 1953, 53rd Leg., p. 493, ch. 178, § 8.

Effective 90 days after May 27, 1953, date of adjournment.

Examination by physicians or chiropractors; process and procedure

Sec. 10. The Board may require any workman claiming to have sustained injury to submit himself for examination before such Board or some one 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, chiropractor or chiropractors, authorized to practice under the Laws of this State. If the workman or the institution requests, he or it shall be entitled to have a physician or physicians, a chiropractor or chiropractors of his or its own selection present to participate in such examination. Refusal of the workman 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 workman 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, chiropractic, 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 institution to reduce or suspend the compensation of any such injured workman. No compensation shall be reduced or suspended under the terms of this Section without reasonable notice to the workman and an opportunity to be heard.

The institution shall have the privilege of having any injured workman examined by a physician or physicians, a chiropractor or chiropractors of its own selection, at reasonable times, at a place or places suitable to the condition of the injured workman and convenient and accessible to him. The institution shall pay for such examination and the reasonable expense incident to the injured workman in submitting thereto. The injured workman shall have the privilege to have a physician or chiropractor of his own selection present to participate in such examination. Provided, when such examination is directed by the Board or the institution, the institution shall pay the fee of the physician or chiropractor selected by the workman, 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 subpœna 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. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 9.

Rules and regulations; physicians or chiropractors for examinations; reports of examinations

Sec. 13. The institution 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 Act, and the institution shall have authority to make and enforce such rules for the prevention of accidents and injuries as may be deemed necessary. It shall be the duty of the institution to designate a convenient number of regularly licensed practicing physicians, surgeons and chiropractors for the purpose of making physical examinations of all persons employed or to be employed in the service of the institution to determine who may be physically fit to be classified as "workman" as that term is defined in subsection 2 of Section 2 of this Act, and said physicians, surgeons and chiropractors so designated and so conducting such examinations shall make and file with the institution a complete transcript of said examination in writing and sworn to upon a form to be furnished by the institution. It shall be the duty of the institution to preserve as a part of the permanent records of the institution all reports of such examinations so filed with it. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 10.

Physical examination necessary to be certified as workman

Sec. 14. No person shall be certified as a workman in the institution under the terms and provisions of this Act until he has submitted himself for a physical examination as provided in Section 13 herein and has been certified by the examining physician, surgeon or chiropractor to be physically fit to perform the duties and services to which he is to be assigned, provided that absence of a physical examination shall not be a bar to recovery. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 11.

Hearing of Claim

Sec. 18. When an injured workman has sustained an injury in the course of his 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 workman is being paid compensation as provided in this Act, and the institution is furnishing either hospitalization, medical treatment, or chiropractic care to such workman, 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. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 11a.

Art. 8309c. County employees

Application of existing laws

Sec. 6. Unless otherwise provided herein Sections 1, 5, 7, 7b, 7c, 8, 8a, 8b, 9, 10, 11, 11a, 12, 12a, 12b, 12c, 12d, 12e, 12f, 12i, 13, 14, 15, 15a, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27, of Article 8306 of the Revised Civil Statutes of Texas, 1925, as amended, and Sections 4a, 6a, 11, 12, 13, and 14, of Article 8307, of the Revised Civil Statutes of Texas, 1925, as amended, and Sections 4 and 5 of Article 8309, Revised Civil Statutes of Texas, 1925, as amended are 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, as amended, the words "association," "subscriber," or "employer," or their equivalents appear in such Articles, they shall be construed to and shall mean "the County." As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 12.

Effective 90 days after May 27, 1953, date of adjournment.

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, a chiropractor or chiropractors 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, a chiropractor or chiropractors 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, chiropractic, 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, a chiropractor or chiropractors 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 or physicians, a chiropractor or chiropractors 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 or chiropractor 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 subpœna 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. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 13.

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 hospitalization, medical treatment or chiropractic service 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. As amended Acts 1953, 53rd Leg., p. 493, ch. 178, § 14.

Art. 8309e. City, town and village employees

Constitutional authority

Section 1. By virtue of the provisions of Section 61, Article III of the Constitution of the State of Texas granting the Legislature power to pass such laws as may be necessary to enable all cities, towns and villages of this State to provide for Workmen's Compensation Insurance, including the right to provide its own insurance risk, for all city, town and village employees as in its judgment is necessary or required, and to provide for the administration of such insurance in the cities, towns and villages, of this State, and to provide for the payment of all costs, 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. "City" whenever used in this Law shall be held to mean any duly and legally incorporated city in the State of Texas.

2. "Town" whenever used in this law shall be held to mean any duly and legally incorporated town in the State of Texas.

3. "Village" whenever used in this Law shall be held to mean any duly and legally incorporated village in the State of Texas.

4. "Employee" shall mean every person in the service of the city, town or village who has been appointed in accordance with the provisions of the Law. No person in the service of the city, town or village 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.

5. "Insurance" shall mean Workmen's Compensation Insurance.

6. "Board" shall mean the Industrial Accident Board of the State of Texas.

7. "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.

8. "Average weekly wages" shall be as defined in Section 1, Article 8309 of Revised Civil Statutes of Texas, 1925.

9. 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.

10. 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.

11. With the consent of the Association or their insurance company, writing insurance provided by the provisions of Title 130 of the Revised Civil Statutes of Texas, an employee may at any time have treatment for his injuries or occupational disease by prayer or spiritual means through the application or use of the principles, tenets, or teachings of any established church 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 injured or sick employee are bona fide members of such church. An employee having treatment by prayer or spiritual means shall be compensated for his injuries, occupational disease, and time, and allowed payment for treatment and necessary services in connection therewith, as fully as if any other form of treatment had been employed. Such employee, however, shall submit to all physical examinations as required by law or as may be directed by the Board or that may be requested by the Association or other insurance company.

Insurance; acceptance of provisions; departments and divisions

Sec. 3. Cities, towns and villages are hereby authorized to either be self-insuring or they may purchase Workmen's Compensation Insurance for their employees from a company authorized to do business in Texas and are charged with the administration of this Act. It is expressly understood that the provision authorizing cities, towns or villages to provide such compensation or insurance is permissive and not mandatory. The duly and legally constituted governing body of any city, town or village may by proper order put into effect the provisions of this Act. The legally constituted governing body of the city, town or village 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 city, town or village, the approximate number of employees, and the estimated amount of payroll.

The duly and legally constituted governing body of the city, town or village shall give notice to all workmen that effective at the time stated in such notice, the city, town or village has provided for payment of insurance.

Employees of the city, town or village 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.

The duly and legally constituted governing body of a city, town or village may by proper order authorize the provisions of this Act to apply to its employees on a departmental basis with the provisions of this Act being put into effect as to the employees in one or more departments or divisions of a city, town or village and not put into effect as to employees of other divisions or departments of the city, town or village.

Defenses; wilful injury; intoxication

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 city, town or village 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 of compensation; assignability

Sec. 5. Employees of the city, town or village and the parents of minor employees shall have no right of action against the officers, agents, servants or employees of the city, town or village 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 city, town or village 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 other articles

Sec. 6. Unless otherwise provided herein Section 6, as amended by Acts, 1927, Fortieth Legislature, page 84, Chapter 60; Sections 1 and 7, as amended by H. B. No. 10, Acts, 1947, Fiftieth Legislature; 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,[1] are 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 "city," "town," or "village."

1 Article 8306, § 7d.

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.

Examination by physician or chiropractor; 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, chiropractor or chiropractors, authorized to practice under the Laws of this State. If the employee of the city, town or village requests, he or it shall be entitled to have a physician or physicians, chiropractor or chiropractors, 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, surgical, chiropractic 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 city, town or village 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 city, town or village shall have the privilege of having any injured employee examined by a physician or physicians, chiropractor or chiropractors, of its own choice, at reasonable times, at a place or places suitable to the condition of the injured employee and convenient and accessible to him. The city, town or village 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 or chiropractor of his own selection present to participate in such examination. Provided, when such examination is directed by the Board or the city, town or village, the city, town or village shall pay the fee of the physician or chiropractor 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 the power to subpœna 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.

Questions determined by board; suit to set aside decisions; suit on order, ruling or decision; suit to collect award

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 city, town or village. If the final order of the Board is against the city, town or village, then the city, town or village 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 city, town or village 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 city, town or village, 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 city, town or village and the city, town or village 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 city, town or village 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.

Records and reports

Sec. 11. The city, town or village 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 the 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 city, town or village shall be responsible for the submission of the reports in the time specified in this Section.

Rules and regulations

Sec. 12. The city, town or village 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 city, town or village 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 city, town or village 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.

Time for suit to set aside decision; venue

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 for hearings

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 city, town or village 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.

Costs and expenses, provision for

Sec. 16. The city, town or village 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 city, town or village 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 city, town or village 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 city, town or village treasurer and the duly and legally constituted governing body of said city, town or village.

City, town or village attorney, duties of

Sec. 17. The city, town or village attorney shall be the regular representative of the city, town or village 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 city, town or village is the insurer.

Notice of suit; mailing copy of judgment; 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). Acts 1953, 53rd Leg., p. 805, ch. 327.

Emergency. Effective June 8, 1953.

The Act of 1953 was preceded by the following preamble:

"Whereas, H. J. R. No. 20, Fifty-second Legislature, called for submission to the qualified electorate of the State of Texas, a Constitutional Amendment which would provide Workmen's Compensation Insurance to employees of cities, towns and villages; and

"Whereas, The said Constitutional Amendment was adopted by the qualified electorate of the State at the General Election held on November 4, 1952, by an overwhelming majority of 674,089 to 414,489; and

"Whereas, Employees of cities, towns and villages work under similar conditions and are exposed to similar risks as employees of private enterprises and as employees of counties; and

"Whereas, Employees of cities, towns and villages do not now receive the benefits of the Workmen's Compensation Law as provided for employees of private enterprises and as provided for employees of counties; and

"Whereas, It is the intention of this Act to secure for the employees of cities, towns and villages, Workmen's Compensation Insurance and the benefits of the Workmen's Compensation Act; now therefore,"

Section 19 of the Act of 1953 provided that partial invalidity should not affect the remaining provisions of the Act. Section 20 repealed conflicting laws and parts of laws to the extent of the conflict.

TITLE 131—WRECKS

CHAPTER ONE—WRECK-MASTERS

Arts. 8310–8318. Repealed. Acts 1953, 53rd Leg., p. 28, ch. 22, § 1. Eff. 90 days after May 27, 1953, date of adjournment

Wrecks, see 46 U.S.C.A. § 721 et seq.

CHAPTER TWO—COTTON SALVAGE

Arts. 8319–8324. Repealed. Acts 1953, 53rd Leg., p. 29, ch. 23, § 1. Eff. 90 days after May 27, 1953, date of adjournment

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

Acts 1953, 53rd Leg., p. 634, ch. 245, § 3, eff. Sept. 1, 1953, apparently intended as a repealing provision, read as follows: "Chapter 241, Acts 44th Legislature, Regular Session, 1935, as amended, and all other laws or parts of laws in conflict herewith are repealed to the extent of such conflict."

The Act of 1953 related to the purposes for which an appropriation from the State Hospitals and Special Schools Building Fund might be used. By section 4 of the Act it is effective only during the biennium beginning September 1, 1953, and ending August 31, 1955.

TITLE 7—RELIGION AND EDUCATION

CHAPTER THREE—TEACHERS AND SCHOOLS

Art. 296. Transfer of school children

In the case of conditions arising from public calamity in any section of the State such as serious floods, prolonged drought, or extraordinary border disturbances, resulting after the scholastic census has been taken, in such sudden changes of the scholastic population of any county as would work a hardship in the support of the public free schools of the said county, the State apportionment of any child of school age may, on approval of the State Board of Education, be ordered by the State Commissioner of Education to be transferred to any other county or independent school district in any other county; providing that the facts warranting such transfer shall be sent to the Commissioner of Education by the county or district board of trustees of schools to which transfer is to be made with a formal request for the said transfer before the first of June of the year in which such unusual conditions occur, and provided further that no application for emergency transfers shall be granted unless the number of transfers applied for exceeds twenty per cent (20%) of the number of children assigned to said district including regular transfers as a result of the last preceding census. The Commissioner of Education shall in such case notify the county superintendent of the county to which the funds are to be transferred and the county superintendent of the county from which the funds are to be transferred that final apportionments of school funds cannot be made under these circumstances before June 15. All arrangements for the said emergency transfers must be

completed by the 15th of June following the unusual conditions causing the emergency. Children whose State funds are thus transferred to any county shall be included in the number of children for whom the county school apportionment of the said county is made. Any county judge serving as ex officio county superintendent, or any county superintendent, district, city or town superintendent, or any school officer, who refuses to comply with the provisions of this Article shall be fined not less than Fifty Dollars ($50) nor more than Five Hundred Dollars ($500), or be confined in jail not more than sixty (60) days, or both. As amended Acts 1953, 53rd Leg., p. 839, ch. 339, § 3.

Emergency. Effective June 8, 1953.

TITLE 10—OFFENSES AGAINST MORALS, DECENCY AND CHASTITY

CHAPTER SEVEN—MISCELLANEOUS OFFENSES

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 former proceedings have been had to determine the status of such child, the parent or parents, legal guardian, or any person 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 ($500.00) Dollars, 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 imposed 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 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 prosti-

tutes, 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, as amended, is expressly repealed insofar as it conflicts herewith. As amended Acts 1953, 53rd Leg., p. 733, ch. 288, § 1.

Emergency. Effective June 5, 1953.

CHAPTER EIGHT—TEXAS LIQUOR CONTROL ACT

II. MALT LIQUORS

I. INTOXICATING LIQUORS

Art. 666—17. Unlawful acts of permittees and others enumerated

(1) It shall be unlawful for any person holding a Package Store Permit or owning an interest in a 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. It shall also be unlawful for any person holding a Wine Only Package Store Permit or owning an interest in a Wine Only Package Store Permit 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 the business thereof. The restrictions against any person who is the holder of a Package Store Permit or the owner of an interest in a 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 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 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 [1]) 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 who also hold Package Store Permits 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, governing the sale of liquor by 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 Off-Premise Licenses in doing business thereunder shall be subjected to the penalties provided in Article II of this Act [1]. For the violation of any other provision of this Act such holders of Package Store Permits in doing business thereunder shall be subjected to the penalties provided in Article I of this Act.[2]

Such holders of Retail Dealer's Off-Premise Licenses who also hold Wine Only Package Store Permits 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, governing the sale of liquor by package stores, as to blinds and barriers, employment of a person under the age of twenty-one (21) years, delivery to permittee and licensee 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; notwithstanding any other provisions of the Texas Liquor Control Act, holders of Wine Only Package Store Permits who also hold Retail Dealer's Off-Premise Licenses shall have the right to remain open and sell ale, wine, vinous liquors, and beer, for off-premise consumption only, during the same days and hours that the holder of a Wine and Beer Retailer's Permit may sell ale, beer and wine for on-premise or off-premise consumption, except that a holder of such Wine Only Package Store Permit and Retail Dealer's Off-Premise License shall not sell wine or vinous liquor containing more than fourteen (14%) per centum alcohol by volume on Sundays and after 10:00 P. M. on any day. For the violation of any other provisions of this Act the holders of such Off-Premise Licenses in doing business thereunder shall be subjected to the penalties provided in Article II of this Act. For the violation of any other provision of this Act such holders of Wine Only Package Store Permits in doing business thereunder shall be subjected to the penalties provided in Article I 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. As amended Acts 1951, 52nd Leg., p. 110, ch. 66, § 1; Acts 1953, 53rd Leg., p. 401, ch. 114, § 1.

1 Article 667—1 et seq.
2 Article 666—1 et seq.
Effective 90 days after May 27, 1953, date of adjournment.

(22). It shall be unlawful for any person to use or to exercise any privilege granted by a permit except at the place, address, premise, or location for which the permit is granted; provided, however, that

the holder of a Package Store Permit or Wine Only Package Store Permit issued to a location within a city or town or within two (2) miles of the corporate limits of such city or town, who is also the holder of a Local Cartage Permit as provided in this Article, may make by the most direct route deliveries of and collections for alcoholic beverages off the premises covered by the Permit in areas where the sale thereof is not prohibited under the local option provision of this Act, but only in the city or the two (2) mile limit thereof, 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, written orders, telegraph, or telephone to such premises, provided further, however, nothing in this Act shall prevent the holder of a Package Store Permit or a Wine Only Package Store Permit from delivering alcoholic beverages to the holder of a Carrier's Permit for transportation to persons legally authorized to purchase alcoholic beverages from such permittees. Should any holder of a Local Cartage Permit who is also the holder of a Package Store Permit or Wine Only Package Store Permit violate any provisions of the Texas Liquor Control Act,[1] as amended, or any rule or 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. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 1.

1 Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after May 27, 1953, date of adjournment.

Section 20 of the amendatory Act of 1953 repealed conflicting laws and parts of laws to the extent of the conflict. Section 21 provided that partial invalidity should not affect any other portion of the Act.

Art. 666—32. Local option election

The Commissioners Court of each county in the State upon proper petition may order an election wherein the qualified voters of any county or of any justice precinct or incorporated town or city may by the exercise of local option determine whether or not the sale of alcoholic beverages of one or more of the various types and alcoholic content shall be prohibited or legalized within the prescribed limits of such county, justice precinct, or incorporated town or city; and local option elections shall be called by the Commissioners Court upon proper petition as herein provided. Upon the written application of any one or more qualified voters of any county, justice precinct, or incorporated town or city, the county clerk of such county shall issue to the applicant or applicants a petition to be circulated among the qualified voters thereof for the signatures of those qualified voters in such area who desire that a local option election be called therein for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic content shall be prohibited or legalized within the prescribed limits of such county, justice precinct or incorporated town or city. The petition so issued shall clearly state the issue to be voted upon in such election; each such petition shall show the date of its issue by the county clerk and shall be serially numbered, and each page of such petition shall bear the same date and serial number, and shall bear the seal of the county clerk. The county clerk shall deliver as many copies of said petition as may be required by the applicant and each copy shall bear the date, number and seal on each page as required in the original. The county clerk shall keep a copy of each such petition and a record of the applicants therefor. When any such petition so issued shall within one hundred twenty (120) days after the date of issue be filed with clerk of the Commissioners Court bearing the actual signature of as many as twenty per cent (20%) of the qualified voters in any such county, justice precinct,

incorporated town or city, together with a notation showing the residence address of each of the said signers taking the votes for Governor at the last preceding general election at which time presidential electors were elected as the bases for determining the qualified voters in any such county or political subdivision, it is hereby required that the Commissioners Court at its next regular session shall order a local option election to be held upon the issue set out in such petition. It shall be the duty of the county clerk to check the names of the signers of any such petition and the voting precincts in which they reside to determine whether or not the signers of such petition are in fact qualified voters of the county or political subdivision at the time such petition is presented, and to certify to the Commissioners Court the number of qualified voters signing such petition. No signature shall be counted where there is reason to believe that it is not the actual signature of the purported signer. The minutes of the Commissioners Court shall record the date any such petition is presented, the names of the signers thereof, and the action taken with relation to the same. No subsequent election upon the same issue in the same political subdivision shall be held within one (1) year from the date of the preceding local option election in any county or political subdivision thereof, and no election shall be held in any area to prohibit the sale of any alcoholic beverages of any type or alcoholic content which is already prohibited in the entire area. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 2.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 666—33. Order for election; election officers

When the Commissioners Court shall order an election as herein provided for, it shall be the duty of said court to order such election to be held at the voting places within such county or subdivision thereof, upon a day not less than twenty (20) nor more than thirty (30) days from the date of said order, and the order thus made shall state the issue to be voted upon in such election, and said order shall be held to be prima facie evidence that all provisions necessary to give it validity or to clothe the court with jurisdiction to make it valid, have been duly complied with; provided that such court shall appoint such officers to hold such elections as are now required to hold general elections. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 3.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 666—35. Official ballot; requisites

(a). At said election the vote shall be by official ballot which shall have printed or written thereon at the top thereof in plain letters the words "Official Ballot." Said ballot shall have also written or printed thereon the issue appropriate to the election order as provided in Section 40 of this Act, and the clerk of the court shall furnish the presiding officer of each voting box within such subdivision or county with a number of such ballots, to be not less than twice the number of qualified voters at such voting boxes, and the presiding officer of each voting box shall write his name on the back of each ballot before delivering the same to the voter, and each person offering to vote at each election shall, at the time he offers to vote, be furnished by such presiding officer with one such ballot; and no voter shall be permitted to depart with such ballot

and shall not be assisted in voting by any person except such presiding officer or by some officer assisting in the holding of such election, under the direction of such presiding officer when requested to do so by such voter.

(b). In elections to legalize the sale of alcoholic beverages those in favor of such legalization shall erase the words "Against the legal sale of, etc." by marking a pencil mark through same; and those who oppose such legalization shall erase the words "For the legal sale of, etc." by marking a pencil mark through same.

In elections to prohibit the sale of alcoholic beverages those who favor such prohibition shall erase the words "For the legal sale of, etc." by marking a pencil mark through same; and those who oppose such prohibition shall erase the words "Against the legal sale of, etc." by marking a pencil mark through same. No ballot shall be received or counted by the officers at such elections that is not an official ballot, and that has not the name of the presiding officer of such election written thereon in the handwriting of such presiding officer as provided by this Act. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 4.

Effective 90 days after May 27, 1953, date of adjournment.

666—36. Conformity to general election laws

The officers holding such election shall, in all respects not herein specified, conform to the General Election Laws in force regulating elections and after the polls are closed proceed to count the votes and within twenty-four (24) hours thereafter make due report of said election to the aforesaid Court. The provisions of the General Election Laws shall be followed in calling and conducting said election where not inconsistent herewith. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 5.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 666—37. Canvass of votes

Said court shall hold a special session on the fifth day after holding of said election, or as soon thereafter as practicable, for the purpose of canvassing the votes and certifying the results, and if a majority of the voters favor the issue "Against the legal sale, etc." as to any alcoholic beverages of the various types and alcoholic content, said court shall immediately make an order declaring the results of said vote and absolutely prohibiting the sale of such prohibited type or types of alcoholic beverages within the political subdivision after thirty (30) days from the date of declaring the results thereof, and thereafter until such time as the qualified voters therein may thereafter at the legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held as prima facie evidence that all provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 6.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 666—39. Sale or distribution lawful on vote for sale

If a majority voting at such election favor the issue "For the legal sale, etc." as to any alcoholic beverages of the various types and alcoholic content, the court shall make an order declaring the results and have

the same entered of record in the office of the clerk of said court, whereupon it shall be lawful in such political subdivision to manufacture, sell or distribute such type or types of alcoholic beverages as may be favored in the election in accordance with the terms of this Act, until such time as the qualified voters therein may thereafter, at a legal election held for that purpose, by a majority vote decide otherwise, and the order thus made shall be held prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof. It shall be the duty of the county clerk within three (3) days after the results of any such election have been declared to certify such results to the Secretary of State at Austin. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 7.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 666—40. Local option elections; submission of issues

Section 40. The Commissioners Court upon petition as herein provided shall, as provided in Section 32, Article I,[1] order local option elections for the purpose of determining whether alcoholic beverages of the various types and alcoholic contents herein provided, shall be legalized or prohibited.

In areas where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more such prohibited types or classifications, one of the following issues shall be submitted:

(a) "For the legal sale of beer" and "Against the legal sale of beer."

(b) "For the legal sale of beer for off-premise consumption only" and "Against the legal sale of beer for off-premise consumption only."

(c) "For the legal sale of beer and wine" and "Against the legal sale of beer and wine."

(d) "For the legal sale of beer and wine for off-premise consumption only" and "Against the legal sale of beer and wine for off-premise consumption only."

(e) "For the legal sale of all alcoholic beverages" and "Against the legal sale of all alcoholic beverages."

(f) "For the legal sale of all alcoholic beverages for off-premise consumption only" and "Against the legal sale of all alcoholic beverages for off-premise consumption only."

In areas where the sale of all alcoholic beverages has been legalized one of the following issues shall be submitted in any prohibitory election:

(g) "For the legal sale of beer" and "Against the legal sale of beer."

(h) "For the legal sale of beer for off-premise consumption only" and "Against the legal sale of beer for off-premise consumption only."

(i) "For the legal sale of beer and wine" and "Against the legal sale of beer and wine."

(j) "For the legal sale of beer and wine for off-premise consumption only" and "Against the legal sale of beer and wine for off-premise consumption only."

(k) "For the legal sale of all alcoholic beverages" and "Against the legal sale of all alcoholic beverages."

(l) "For the legal sale of all alcoholic beverages for off-premise consumption only" and "Against the legal sale of all alcoholic beverages for off-premise consumption only."

In areas where the sale of beverages containing alcohol not in excess of fourteen per centum (14%) by volume has been legalized, and those of higher alcoholic content are prohibited, one of the following issues shall be submitted in any prohibitory election:

(m) "For the legal sale of beer" and "Against the legal sale of beer."

(n) "For the legal sale of beer for off-premise consumption only" and "Against the legal sale of beer for off-premise consumption only."

(o) "For the legal sale of beer and wine" and "Against the legal sale of beer and wine."

(p) "For the legal sale of beer and wine for off-premise consumption only" and "Against the legal sale of beer and wine for off-premise consumption only."

In areas where the sale of beer containing alcohol not exceeding four per centum (4%) by weight has been legalized, and all other alcoholic beverages are prohibited, one of the following issues shall be submitted in any prohibitory election:

(q) "For the legal sale of beer" and "Against the legal sale of beer."

(r) "For the legal sale of beer for off-premise consumption only" and "Against the legal sale of beer for off-premise consumption only."

Wine, as referred to in (c) (d) (i) (j) (o) and (p) of this Section 40, shall mean and include malt and vinous beverages that do not contain alcohol in excess of fourteen per centum by volume.

Vinous and malt liquor, containing not more than fourteen per centum (14%) alcohol by volume, and beer, which are sold or dispensed to the public in unbroken, sealed and individual containers are hereby declared to be a separate and distinct type and kind of alcoholic beverage and where the sale of alcoholic beverages has been legalized for off-premise consumption only, the sale or consumption of any other type or kind of alcoholic beverages on the licensed premises shall be unlawful. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 8.

1 Article 666—32.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 666—52. Transportation of ale; transfer of beverages between stores and storage place

Section 52. 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.

The owner of more than one Package Store or more than one Wine Only Package Store who is also the holder of a Local Cartage Permit and who has designated one of his places of business as a place of storage may transfer alcoholic beverages from such place of storage to his other stores in the same county and from such other stores to his storage place. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 9.

Effective 90 days after May 27, 1953, date of adjournment.

II. MALT LIQUORS

Art. 667—5. Application for license

Any person may file an application for 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:

1. If a Manufacturer:

(a) The applicant for an original license, if a Texas corporation, a foreign corporation qualified to do business in Texas, a natural person, association of natural persons, partnership, trustee, receiver, administrator or executor, has failed to state under oath, subscribed to by one of its principal officers if a corporation, that it will be actually engaged in the business of brewing and packaging beer in Texas within the period covered by its license in such quantities as will make of its operation that of a bona fide brewing manufacturer; provided further that if such Manufacturer fails to perform under said sworn statement then his license shall not be subject to renewal, nor shall any original application of his be granted during the succeeding two (2) years from the expiration date of said license; provided further, however, that the provisions of this paragraph (a) shall not ever apply to the holder of any Manufacturer's License in effect on January 1, 1953, or any renewal thereof.

(b) The Texas Liquor Control Board is hereby vested with the authority to determine if the applicant has actually engaged in the business of brewing and packaging beer in Texas in such quantities as will make of its or his operation that of a bona fide brewing manufacturer.

2. If a Distributor or Retailer:

(a). The applicant is under twenty-one (21) years of age; or

(b). The applicant is indebted to the State for any taxes, fees or penalties imposed by this Act[1] or by any rule or regulation of the Board; or

(c). 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). The applicant is in the habit of using alcoholic beverages to excess, or is physically or mentally incompetent; or

(e). 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 (e) shall not apply to any person who has been issued a license or a renewal thereof on or before September 1, 1948; or

(f). The applicant has been finally convicted of a felony during the two (2) years next preceding the filing of his application; or

(g). 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

(h). If a corporation, that the applicant is not incorporated under the laws of this State; or that at least fifty-one per cent (51%) of the stock of such corporation is not owned at all times by citizens who have resided within this State for a period of three (3) years and who possess the qualifications required of other applicants for licenses; provided, however, that this paragraph (h) shall not ever apply to any holder of a Distributor's License in force and effect on January 1, 1953, or any renewal thereof; provided further that this paragraph shall not apply to applications for Beer Retailer's On-Premise Licenses for railway dining, buffet or club cars, which licenses may be issued for a fee of Five Dollars ($5) for each car, payment of which fee and application for which license shall be made direct to the Board.

3. 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). 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). Two (2) years has not elapsed since the termination, by pardon or otherwise, of any sentence imposed upon conviction for a felony; or

(c). 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 (12) period next preceding the date of his application; or

(d). 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). 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). 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). The applicant is residentially domiciled with any person in whose name any license or permit has been canceled or revoked within one (1) year next preceding the date of the application for a license; or

(h). 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). 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). 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;[2] or

(k). 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*). 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). 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). 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*). 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 for any purpose or in any manner lewd, immoral, or offensive to public decency; or

(p). The premises sought to be licensed under a Retail Dealer's License are owned in part by a Manufacturer or Distributor.

4. 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.

5. 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. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 10.

[1]Articles 666—1 et seq., 667—1 et seq.
[2] Articles 666—23(a) and 666—17(1).
Effective 90 days after May 27, 1953, date of adjournment.

Art. 667—7. Expiration and renewal of licenses; assignability; refund; duplicate; second license for same location

(a). Any license issued under the terms of this Article except Branch Licenses, Importer's Licenses, Importer's Carrier's Licenses, and Temporary Licenses specifically provided for, shall terminate one (1) year from the date issued, and no license shall be issued for a longer term than one (1) year. When it is desired to renew any license obtained under the procedure provided in this Article, the holder of such license shall make written application to the Assessor and Collector of Taxes of the county wherein the license is located not more than thirty (30) days prior to, and not after, the date of expiration of the license held by him. Such application for renewal shall be signed by the applicant and contain full and complete information required of the applicant by the Board showing such applicant is not disqualified from holding a license under this Act, and applicant shall pay to the Assessor and Collector of Taxes the ap-

propriate license fee for the class of license sought to be renewed. The Assessor and Collector of Taxes shall thereupon transmit to the Board the original copy of said application for renewal together with the certification that all required fees have been paid for the ensuing license period; and upon receiving the original copy of said application and certification as to the payment of fees, the Board or Administrator may in its discretion issue the license applied for, or may reject the same and require that the applicant for renewal file application with the County Judge and submit to hearing before such County Judge in the manner required of any applicant for the primary or original license. Any applicant for renewal when such renewal is rejected by the Board or Administrator shall be entitled to refund of any license fee paid to the County Assessor and Collector of Taxes at the time of filing his application for renewal.

(b). Any application for renewal shall be accompanied by a fee of Two Dollars ($2), which shall be in addition to the amount required by law to be paid for annual license fees, as a renewal fee charge. Any renewal fee charges collected by the County Assessor and Collector of Taxes shall be deposited in the county treasury as fees of office and be so accounted for by him. No applicant for renewal of license shall be required to pay any fees other than the renewal fee charge and license fees herein provided, except when required by action of the Board or Administrator to submit to hearing upon such renewal before the County Judge.

(c). A separate license fee shall be required for every place of business where the business of manufacturing, importing, or selling beer is conducted.

(d). No license issued under the provisions of this Article shall be assigned by the holder thereof to any person; provided that should any holder of a license desire to change the place of business designated in such license, he may do so by applying upon a form prescribed by the Board to the County Judge and receiving his consent or approval, but further providing that the County Judge may deny such application for change in the place of business for any cause for which an original application may be denied. Any such application may be subject to protest and hearing as though it were an original application. No additional license fees for the remaining unexpired term of the license shall be required of the applicant for change of location.

(e). No licensee shall obtain any refund upon the surrender or nonuse of any license for the manufacture, distribution, importation, or sale of beer except as otherwise provided in this Article.

(f). No person shall conduct as owner or part owner thereof any place of business engaged in the manufacture, distribution, importation or sale of beer except under the name to which the license covering such place of business is issued.

(g). Every license issued prior to the effective date hereof authorizing the manufacture, distribution, or sale of beer shall remain in force until the date of its expiration, but the licensee thereunder shall hold such license as fully subject to all the provisions of this Act, including, but not limited to, the cancellation or suspension thereof for cause as any license that may be issued on or after the effective date hereof.

(h). Should the license of any licensee become mutilated or destroyed the Board or Administrator may issue another license by way of replacement in any manner deemed appropriate by the Board or Administrator.

(i). If any license as provided in this Act shall have been issued to any person for a premises, location, or place of business, and said license is still in effect no other license shall be issued to an applicant therefor unless the holder of the existing license shall have made showing in a manner prescribed by the Board that any privilege conveyed by the existing license will no longer be exercised by the holder thereof at such premises, location or place of business. If the holder of such license desires to transfer the license to another location, such transfer may be applied for as herein provided. In the event the holder of such license makes any declaration required by the Board that the license is no longer to be used, then, and in that event, it shall be unlawful for the holder thereof to manufacture, sell, or possess for the purpose of sale any beer unless and until he shall have made application to reinstate the use of the license in the manner and procedure required in making application for an original license, and re-use of the license may be denied by the County Judge before whom the application for re-use shall be filed, or by the Texas Liquor Control Board or the Administrator for any cause for which a license applied for in an original application may be denied. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 11.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 667—9. Records

Every holder of a Manufacturer's or Distributor's License shall make and keep a record of each day's production or receipt of beer, every sale of beer and to whom such sale is made, and entry of every transaction shall be made on the day it occurs; and all such licensees shall make and keep such other records as may be required to be made by the Board or Administrator. All records which licensees are required to make shall be kept available for the inspection of the Board or its authorized representatives for a period of at least two (2) years. It shall be unlawful for any person to fail to make records as required herein or fail to keep for a period of at least two (2) years such records open for inspection by the Board or its duly authorized representatives during reasonable office hours or to make any false entry or fail to make any entry as herein provided. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 12.

Effective 90 days after May 27, 1953, 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). 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

(5). 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 beverages 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 [1] or Section 17 (1) of Article I of the Texas Liquor Control Act;[2] or

(6). 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,[3] 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). That the place or manner in which the licensee 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 license; or

(15). 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

(16). 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;[4] or

(17). 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

(18). Purchased, bartered, borrowed, loaned, exchanged or acquired any alcoholic beverage for the purpose of resale from another Retail Dealer of alcoholic beverages; or

(19). 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

(20). 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

(21). Has made any false statement or misrepresentation in his original application or any renewal application; or

(22). 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

(23). 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

(24). 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

(25). Has been finally convicted of a felony during the period he is the holder of any license or any renewal thereof; or

(26). Imported beer into this State, except as provided in Section 3–b, Article II, of this Act;[5] or

(27). Occupied a premise in which any Manufacturer, General Distributor, Branch Distributor or Local Distributor has any interest of any kind; or

(28). 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

(29). 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 paragraphs (5), (30) and (31) hereof, 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; or

(30). 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

(31). 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.

(32). The causes specified in the foregoing paragraphs (1) through (28) and (30) and (31) 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.

(33). The causes specified in the foregoing paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (13), (15), (16), (17), (19), (21), (22), and (27) shall also mean and include any agent, servant, or employee of the licensee. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 13.

B. If a General Distributor's License, Local Distributor's License or a 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 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 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 been finally convicted for the violation of any penal provisions of this Act.

(18). The causes specified in the foregoing paragraphs (1) through (17) 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) and (15) shall also mean and include any agent, servant, or employee of the licensee. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 13.

1 Article 666—23 (a) (5).
2 Article 666—17 (1).
3 Article 667—24.
4 Article 666—4 (c).
5 Article 667—3b.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 667—19B. Lewd or immoral conduct; conduct offensive to public decency

For the purposes contemplated by this Act,[1] 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.

(j). Possession of any narcotic.

(k). Possession of any equipment used for or designed for the use of administering any narcotic.

(*l*). Permitting any person to possess on the licensed premises any narcotic or any instrument used for or designed for the use of administering any narcotic. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 14.

[1]Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 667—19D. Acquiring beverages for resale from other licensees; storing beer for sale off licensed premises; exchange or transportation between licensed premises under same ownership

It shall be unlawful for the holder of any Retail Dealer's Off-Premise License or Retail Dealer's On-Premise License to borrow, loan, exchange or acquire any alcoholic beverage for the purpose of resale from any other holder of a Retail Dealer's Off-Premise License or a Retail Dealer's On-Premise License, or to own, possess or store beer for the purpose of resale other than on the licensed premises. In the case of two (2) or more licensed retail premises under the same ownership it shall be unlawful to exchange or transport beer between them or between any warehouse, place of storage or distribution center which is either directly or indirectly under the control of said common ownership unless all of the conditions set out in Section 52 of Article I [1] hereof be met. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 2, § 19–D, added Acts 1953, 53rd Leg., p. 643, ch. 249, § 15.

[1] Article 666—52.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 667—23¼. 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 [1] 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 sold aboard ships for ship's supplies, 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 sold aboard ships for ship's supplies, 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 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 (12), Article I of the Act,[2] 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 unless the same shall be consigned to an Importer.

(f). As used in Article II,[3] 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 fee for which shall be Five Dollars ($5) per year or fraction thereof. The application for such license shall contain such information as the Board may require. No Importer's License shall be granted any person who is not already the holder of a Manufacturer's License or a Distributor's License, and all Importer's Licenses shall terminate at the same time as the primary license under which it was issued.

(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 fee for such license shall be Five Dollars ($5) per year or fraction thereof. 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, and all Importer's Carrier's Licenses shall terminate at the same time as the primary license under which it was issued.

(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 23½ of Article II of the Texas Liquor Control Act.[4]

(*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 [5] heretofore and herein are hereby specifically repealed. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 16.

1 Article 667—23.
2 Article 666—15(12).
3 Article 667—1 et seq.
4 Article 667—23½.
5 Articles 666—1 et seq., 667—1 et seq.
Effective 90 days after May 27, 1953, date of adjournment.

Art. 667—23½. Funds derived from taxes on beer; disposition

After allocation of funds to defray administrative expenses as provided in the current Departmental Appropriation Act, all funds derived from taxes on beer shall be deposited in the State Treasury as follows:

(a). One-fourth (¼) to the Available School Fund.

(b). Three-fourths (¾) to the Clearance Fund as provided in Section 2, Article XX of H. B. No. 8, Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature,[1] for the purposes designated by such Act. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 17.

1 Vernon's Ann.Civ.St. art. 7083a.
Effective 90 days after May 27, 1953, date of adjournment.

Art. 667—25. Transportation of beer; possession in dry area

(a). It is hereby declared to be lawful to transport beer, as herein defined, from any place in this State where the sale, manufacture, and distribution of said beer is authorized by law to any other place within this State where same may be lawfully manufactured, sold, or distributed; and from the State boundary to any such place, even though in the course of such transportation the route over which the same is being transported may traverse local option territory in which the manufacture, sale and distribution of said beer is prohibited. Provided, however, that any such shipments must be accompanied by a written statement furnished and signed by the shipper, showing the name and address of the consignor and the consignee, the origin and destination of such shipment, and such other information as may be required by the Board or Administrator; and it shall be the duty of the person in charge of such cargo while it is being so transported to exhibit such written statement to any representative of the Board or any peace officer making demand therefor, and said statement shall be accepted by such officer as prima facie evidence of the lawful right to transport such beer. The transportation of beer not accompanied by statement herein required, or failure to exhibit the same upon lawful demand, shall be a violation of this Act, and any beer being transported in violation hereof shall be subject to seizure without warrant.

(b). Possession by any person in any dry area of beer in any quantity exceeding twenty-four (24) bottles having a capacity of twelve (12) ounces shall be prima facie evidence of possession for the purpose of sale in a dry area.

(c). Common carriers shall be privileged to deliver beer in dry areas only when consigned to the holder of a Local or General Distributor's License, and when such Distributor has previously declared his intention to transport the same to a licensed place of business in a wet area. The transportation of beer received by a Distributor from a common carrier in a dry area shall be in strict accordance with the requirements of this Section. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 18.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 667—32. Ownership by manufacturer of premises licensed and used for athletic contests

Notwithstanding any other provision of this Act,[1] it shall not be cause for denying an application for a retail license, nor cause for suspension or cancellation of a retail license if it be determined that a Manufacturer is the owner in whole or in part of premises licensed or sought to be licensed which are primarily designed and used for athletic contests. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 2, § 32, added Acts 1953, 53rd Leg., p. 643, ch. 249, § 19.

[1]Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after May 27, 1953, date of adjournment.

TITLE 12—PUBLIC HEALTH

CHAPTER ONE—ACTS INJURIOUS TO HEALTH

Art. 701b. Repealed. Acts 1953, 53rd Leg., p. 1005, ch. 413, § 16. Eff. June 9, 1953

Convalescent homes, see Vernon's Ann. Civ.St. art. 4442c.

CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art.
725c. Narcotic addicts [New].

Art. 725b. Narcotic drug regulations

Definitions

Section 1. The following words and phrases, as used in this Act, shall have the following meanings, unless the context otherwise requires:

(1) "Person" includes any corporation, association, copartnership, or one or more individuals.

(2) "Licensed Physician." Licensed physicians for the purposes of this Act are defined as any person, duly licensed and whose license is current in all respects as issued by the Texas State Board of Medical Examiners.

(3) "Dentist" means a person authorized by law to practice dentistry in this State.

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this State.

(5) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared, on official written orders, but not on prescriptions.

(7) "Apothecary" means a licensed pharmacist as defined by the laws of this State and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this Act shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege that is not granted to him by the Pharmacy Laws of this State.

(8) "Hospital" means any institution for the care and treatment of the sick and injured, duly registered under the Federal Narcotic Laws as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist or veterinarian as defined herein.

(9) "Laboratory" means a laboratory duly registered under the Federal Narcotic Laws or approved by the State Department of Public Health as proper to be entrusted with the custody of narcotic drugs.

(10) "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(11) "Coca Leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(12) "Opium" includes morphine, codein, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium, but does not include apomorphine or any of its salts.

(13) The term "Cannabis" as used in this Act shall include all parts of the plant Cannabis Sativa L., whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the nonresinous oil obtained from such seed, nor the mature stalks of such plant, nor any product or manufacture of such stalks, except the resin extracted therefrom and any compound, manufacture, salt, derivative, mixture, or preparation of such resin. The term "Cannabis" shall include those varieties of Cannabis known as Marihuana, Hashish and Hasheesh.

(14) "Narcotic drugs" means coca leaves, opium, pyote, mescal bean, and cannabis, amidone, and isonipecaine, every substance neither chemically nor physically distinguishable from them, and opiates which shall mean any drug found to be an addiction-forming or addiction-sustaining liability similar to opium or cocaine, which are now or may be added subsequently, as restricted preparations under the provisions of the Federal Narcotic Laws.

(15) "Federal Narcotic Laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs.

(16) "Official written order" means an order written on a form provided for that purpose by the United States Commissioner of Narcotics under any laws of the United States making provision therefor.

(17) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(18) "Registry number" means the number assigned to each person registered under the Federal Narcotic Laws.

(19) "Isonipecaine" shall mean any substance identified chemically as 1–methyl–4–phenyl-piperidine–4–carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated.

(20) "Amidone" shall mean any substance identified chemically as 4–4–Diphenyl–6–Dimethylamino–Heptanone–3, or any salt thereof by whatever trade name designated. As amended Acts 1953, 53rd Leg., p. 812, ch. 328, § 1.

Qualification for licenses

Sec. 4. Repealed. Acts 1953, 53rd Leg., p. 812, c. 328, § 2.

Sale on written orders

Sec. 5. (1) A manufacturer or wholesaler duly registered under the Federal Narcotic Laws may sell and dispense narcotic drugs to any of the following persons, but only on official written orders;

(a) To a manufacturer, wholesaler, or apothecary.

(b) To a physician, dentist, or veterinarian.

(c) To a person in charge of a hospital, but only for use by or in that hospital.

(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific or medical purposes.

(2) A manufacturer or wholesaler duly registered under the Federal Narcotic Laws may sell narcotic drugs to any of the following persons:

(a) On a special written order accompanied by a certificate of exemption, as required by the Federal Narcotic Laws, to a person in the employ of the United States Government, or of any State, territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties.

(b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, or to a physician or surgeon duly licensed in some State, Territory, or the District of Columbia to practice his profession, or to a retired commissioned medical officer of the United States Army, Navy, or Public Health Service employed upon such ship or aircraft, for the actual medical needs of persons on board such ship or aircraft when not in port. Provided, such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft or to the physician, surgeon, or retired commissioned medical officer of the United States Army, Navy, or Public Health Service employed upon such ship or aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States Public Health Service.

(c) To a person in a foreign country if the provisions of the Federal Narcotic Laws are complied with.

(3) (Use of Official Written Orders). An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In the event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two (2) years in such way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this Act. It shall be deemed a compliance with this Subsection if the parties to the transaction have complied with the Federal Narcotic Laws, respecting the requirements governing the use of order forms.

(4) (Possession Lawful). Possession of or control of narcotic drugs obtained as authorized by this Section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

(5) A person in charge of a hospital or of a laboratory, or in the employ of this State or of any other State, or of any political subdivision thereof, or a master of a ship or a person in charge of any aircraft upon

which no physician is regularly employed, or a physician or surgeon duly licensed in some State, Territory, or the District of Columbia, to practice his profession, or a retired commissioned medical officer of the United States Army, Navy, or Public Health Service employed upon such ship or aircraft, who obtains narcotic drugs under the provisions of this Section or otherwise, shall not administer nor dispense, nor otherwise use such drugs, within this State, except within the scope of his employment or official duty, and then only for scientific or medical purposes and subject to the provisions of this Act. As amended Acts 1953, 53rd Leg., p. 812, ch. 328, § 3.

Record to be kept

Sec. 9. (1) (Physicians, Dentists, Veterinarians, and other Authorized Persons). Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this Subsection if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations, purchased or made up by him, and of the dates when purchased or made up by him, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

Provided, that no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one (1) patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight (48) consecutive hours: (a) four (4) grains of opium; or (b) one-half (½) of a grain of morphine or any of its salts; or (c) two (2) grains of codeine or any of its salts; or (d) one-fourth (¼) of a grain of heroin or any of its salts; or (e) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated. Provided further, that any person may purchase at any time one (1) ounce of paregoric without a doctor's prescription. As amended Acts, 1941, Forty-seventh Legislature, page 647, Chapter 392, Section 2; Acts, 1943, Forty-eighth Legislature, page 346, Chapter 225, Section 1.

(2) (Manufacturers and Wholesalers). Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of Subsection 5 of this Section.

(3) (Apothecaries). Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of Subsection 5 of this Section.

(4) (Vendors of Exempted Preparations). Every person who purchases for resale, or who sells narcotic drug preparations exempted by Section 8 of this Act, shall keep a record showing the quantities and kinds thereof received and sold or disposed of otherwise, in accordance with the provisions of Subsection 5 of this Section.

(5) (Form and Preservation of Records). The record of narcotic drugs received shall in every case show the date of receipt, the name and

address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced, and the proportion of resin contained in or producible from the plant Cannabis Sativa L. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two (2) years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws, containing substantially the same information as is specified above, shall constitute compliance with this Section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft. As amended Acts 1953, 53rd Leg., p. 812, ch. 328, § 4.

Fingerprints; information sent to Department of Public Safety

Sec. 18a. (1) The sheriffs, chiefs of police, members of the State Department of Public Safety, and any other law enforcement agencies and officers, shall immediately upon the arrest of any persons for any offense against the laws of this State relating to narcotic drugs, and immediately after the conviction of any person of violation of this Act, take the fingerprints of such person and forward copies thereof to the Department of Public Safety together with photographs and such other description and information as required by the Department of Public Safety.

(2) The Clerk of every Court of this State in which any person is prosecuted for an offense under the Laws of this State relating to narcotic drugs shall promptly report to the Department of Public Safety the sentence of the Court or other disposition of the case. Added Acts 1953, 53rd Leg., p. 812, ch. 328, § 5.

Penalties

Sec. 23. (1) Any person violating any provision of this Act shall, upon conviction be punished by confinement in the penitentiary for not less than two (2) years nor more than ten (10) years, and upon the second conviction therefor shall be punished by confinement in the penitentiary for not less than five (5) years nor more than twenty-five (25) years, and upon the third and subsequent convictions therefor shall be punished by confinement in the penitentiary for not less than ten (10) years nor more than life, and the benefits of the suspended sentence law shall not be available to a defendant convicted for a second or subsequent violation of the provisions of this Act.

(2) Any adult person who hires, employs, or uses a minor under nineteen (19) years of age in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any narcotic drug, or who unlawfully sells, gives, furnishes, administers, or offers to sell, furnish, give, administer any narcotic drug to a minor under nineteen (19) years of age shall, upon conviction, be punished by confinement in the

penitentiary for not less than five (5) years nor more than life, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years, nor more than life, and the benefits of the suspended sentence law shall not be available to a defendant convicted for violation of the provisions of this Subsection. As amended Acts 1953, 53rd Leg., p. 812, ch. 328, § 6.

Uncorroborated accomplice testimony

Sec. 24a. Repealed. Acts 1953, 53rd Leg., p. 812, c. 328, § 7.

Effective 90 days after May 27, 1953, date of adjournment.

Section 8 of the amendatory Act of 1953 provided that partial invalidity should not affect other provisions or applications of the act which could be given effect without the invalid provisions or applications.

Art. 725c. Narcotic addicts

Definition

Section 1. The term "narcotic drugs" as used in this Act shall have the same meaning as the definition of that term in Chapter 169, Acts of the Forty-fifth Legislature, Regular Session, 1937 (Uniform Narcotic Drug Act) [1] as amended by subsequent Acts of the Legislature.

1 Article 725b.

Acts prohibited

Sec. 2. It shall be unlawful for any person to habitually use narcotic drugs, be addicted to the use of narcotic drugs, or be under the influence of narcotic drugs, provided, however, that nothing in this Section shall be applicable to a person who has a medical need for narcotic drugs and who obtains the narcotic drugs required for such medical need in accordance with the laws of the State of Texas and of the United States.

Penalties

Sec. 3. Any person violating any provision of this Act shall be guilty of a misdemeanor, and, upon conviction, or a plea of guilty to a violation of this Act, shall be punished by confinement in jail for a period of not more than one (1) year.

Sec. 4. Sections 1 to 6, inclusive, of Chapter 452, Acts of the Fiftieth Legislature, 1947, (codified as Article 781b of Vernon's Texas Code of Criminal Procedure) relating to adult probation are applicable to cases where a defendant has been convicted or has entered a plea of guilty to a violation of this Act, except that in cases charging a violation of this Act, probation may be granted notwithstanding that the defendant may have previously been convicted of a felony, and the court may include among the conditions of the probation that the probationer shall enter a hospital approved by the court and remain there until discharged by the medical authorities of such hospital as cured.

Act cumulative; conflict with Narcotic Drug Act

Sec. 5. This Act shall be cumulative of all other laws relating to narcotic drugs and is intended to define as separate and new offenses the acts herein made unlawful. However, in case of conflict between any provision of this Act and any provision of Chapter 169, Acts of the Forty-fifth Legislature, Regular Session, 1937, (Uniform Narcotic Drug

Act) or any subsequent amendment thereto, the provisions of the Uniform Narcotic Drug Act and its amendments shall govern. Acts 1953, 53rd Leg., p. 594, ch. 237.

Effective 90 days after May 27, 1953, date of adjournment.

Title of Act:

An Act providing for compulsory treatment of narcotic addicts; defining certain terms; making the use of narcotic drugs unlawful and providing an exception; providing penalties; providing for probation upon conviction or entry of a plea of guilty to violation of this Act; declaring the effect of this Act on other laws; and declaring an emergency. Acts 1953, 53rd Leg., p. 594, ch. 237.

CHAPTER FOUR—BARBER SHOPS AND BEAUTY PARLORS

Art. 734b. Hairdressers and cosmetologists

State Board of Hairdressers and Cosmetologists

Section 1(a). The State Board of Hairdressers and Cosmetologists shall be composed of three (3) members to be appointed by the Governor, by and with the advice and consent of the Senate of Texas; the members shall be at least twenty-five (25) years of age each and each shall have had at least five (5) years practical experience in the majority of the practices of hairdressing and cosmetology in Texas as a hairdresser and cosmetologist or instructor under a license issued by the Board, and shall be a citizen of this State. No member of the Board shall be a member of, or affiliated with, or shall have any financial interest in any such school of hairdressing and cosmetology while in office, nor shall any two (2) members of said Board be graduates of the same school. If it be proved to the Governor of Texas by reliable and satisfactory evidence that any member of such Board is affiliated with or has any financial interest in any such school, then the Governor, immediately, shall declare the office vacant.

(b) Each member of said Board shall serve a term of six (6) years, or until his or her successor is appointed and qualified. The present members of the Board shall serve until their respective terms expire and one (1) member shall be appointed biennially thereafter. The members of said Board shall take the oath provided by the law for public officials. Vacancies occurring in the Board shall be filled by appointment of the Governor by and with the advice and consent of the Senate of Texas, for the unexpired term.

(c) The Board shall proceed to organize with the election of a President, Vice-President and Secretary from its membership, and shall organize the work of the Board as may seem proper. The Board shall have the authority to promulgate such reasonable rules and regulations, as it deems proper, for the efficient administration of this Act, provided, however, that before such rules and regulations become effective they shall be approved, in writing, by the Attorney General of Texas as to their validity and a copy of any and all rules and regulations so promulgated, together with the written approval of the Attorney General shall be filed in the office of the Secretary of State for public inspection thereof. Any changes or amendments to any and all rules and regulations as may be promulgated by the Board shall, before they become effective, likewise be approved in writing by the Attorney General and be filed in the office of the Secretary of State for public inspection.

(d) The Board shall employ an Executive Secretary who shall not be a member of the Board. The compensation and necessary expenses

of such Executive Secretary shall be provided by law. Such Executive Secretary, before entering upon the duties of the office, shall give a good and sufficient bond executed by a surety company authorized to do business in the State of Texas, in the sum of Ten Thousand Dollars ($10,000), payable to the State of Texas, conditioned for the faithful performance of his or her duties, such bond to be approved by the Attorney General and filed in the office of the Secretary of State. The bond premium shall be paid by the Board, as provided by law.

(e) The State Treasurer of the State of Texas is hereby designated as custodian of all revenues derived under the provisions of this Act, and all such funds shall be credited by the State Treasurer to the "State Board of Cosmetologists Fund," to be withdrawn upon vouchers signed by the President and Secretary of the Board and countersigned by the Comptroller of Public Accounts.

(f) The members of the Board shall each receive a salary of Four Thousand, Six Hundred and Twenty Dollars ($4,620) per year, payable in equal monthly payments, together with actual expenses incurred in the performance of their official duties, as may be provided by law, and, providing such expenses shall be allowed only if and when audited and approved by the Comptroller of Public Accounts. The salaries of the Board members and the Executive Secretary, as well as all other expenses incidental to the official discharge of their duties, shall be allowed as provided by law in the general departmental appropriation bill. Not more than One Hundred Dollars ($100) shall be authorized to defray the expenses of any member or members of the Board in attending any State conventions of beauty culturists and not more than Two Hundred Dollars ($200) shall be authorized to defray the expenses of any member or members of the Board in attending any conventions or meetings of beauty culturists outside the State of Texas; providing, that approval of the Attorney General shall be first had and obtained in writing, before any moneys shall be expended for expenses incurred on any trip outside the State. Such expenses shall be paid out of the funds in the State Treasury to the credit of the Board of Cosmetology on a voucher or vouchers signed by the President and Secretary of the Board and countersigned by the Comptroller of Public Accounts. The members of the Board shall devote full time to the duties required by law.

(g) The said Board shall keep a record of its proceedings. It shall keep a register of applicants for certificates showing the name of the applicant, the name and location of his place of business, and whether the applicant was granted or refused a certificate. The books and records of the Board shall be prima facie evidence of the matters therein contained and shall constitute public records and may be inspected during regular office hours.

Definitions

Sec. 2. (a) The term "Board" as used in this Act shall mean the "Texas State Board of Hairdressers and Cosmetologists."

(b) The practice of hairdressing and cosmetology, as used herein, shall mean the use, by any person for a fee or other pecuniary compensation, of cosmetological preparations, antiseptics, tonics, lotions or creams, engaging in or performing any one (1) or a combination of the following matters, either with the hands or with mechanical or electrical apparati or appliances, to wit: cleansing, beautifying or performing any work on the scalp, face, neck, arms, bust or upper part of the body or

manicuring the nails of any person, or in arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring or similar work upon the hair of any person by any means.

(c) Any person using cosmetological preparations, antiseptics, tonics, lotions or creams engaging in or performing any one (1) or a combination of the following practices, either with the hands or with mechanical or electrical apparati or appliances, for a fee or other pecuniary compensation, namely, cleansing, beautifying or performing any work on the scalp, face, neck, arms, bust or upper part of the body or manicuring the nails of any person or in arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring or similar work upon the hair of any person by any means shall be deemed to be practicing cosmetology and hairdressing.

(d) Any person who engages in or performs only the practice of manicuring the nails of any person shall be known as a manicurist.

(e) Any person, firm, association or corporation, who shall hold himself or itself out as a school to teach and train, or who shall teach and train any other person or persons in the art, business or trade of hairdressing and cosmetology, or manicuring, as provided in this Act, is hereby declared to be a beauty culture school, and is subject to the provisions and restrictions contained in this Act.

(f) An operator is any person who engages in or performs any of the practices of hairdressing and cosmetology, as defined in this Act.

(g) An instructor is any person engaged in teaching any of the practices of the occupation of hairdresser and cosmetologist or manicurist as defined herein.

(h) A hairdressing or cosmetological shop is that part of any building where or in which hairdressing or cosmetology, as defined in this Act, is performed or practiced. For the purposes of this Act, a hairdressing or cosmetological shop shall be synonymous with beauty parlor, beauty shop, beauty salon or studio of beauty.

(i) A student is defined to be any person who is attending or being taught in a licensed beauty culture school as defined in this Act.

Permit or license required

Sec. 3. It shall be unlawful for any person, firm or association or corporation to practice, or engage in, the occupation of hairdresser and cosmetologist, or manicurist, or to operate a beauty culture school or serve as an instructor therein, or to perform any of the operations of such occupations, or to conduct a hairdressing and cosmetological shop or beauty culture school unless such person, firm, association or corporation first shall have obtained and have in his or its possession a valid temporary permit or license from the State Board of Hairdressers and Cosmetologists to engage in and perform such operations and occupations; and it shall be unlawful for the owner or manager of any hairdressing and cosmetological shop to employ any person as a hairdresser and cosmetologist or manicurist, who has not first obtained a license from the Board as provided for herein; and it shall be unlawful for any person, firm, association, or corporation to operate a beauty shop within this State unless such shop is, at all times, under the direct supervision of an operator licensed under this Act; and it shall be unlawful for any person, firm, association or corporation to operate a beauty culture school within this State unless such school is, at all times, under the direct supervision of an instructor licensed by the Board for such purpose.

Meetings and examinations; issuance of certificate or license; display; health certificates

Sec. 4. (a) The Board shall hold regular meetings for the examination of applicants in Austin, Texas, beginning on the first Tuesday in May, and on the first Tuesday in August and November during the calendar year of 1953, and on and after January 1, 1954, it shall hold regular meetings for the examination of applicants on the first Tuesday of each month thereafter, provided that if such Tuesday shall be a legal holiday, such examination shall be held on the following day. Applicants for license to engage in the occupation of hairdresser and cosmetologist, or manicurist, shall be required to satisfactorily pass an examination given by the Board at its meetings above provided for. The application for examination shall be accompanied by the following, and shall be filed at least ten (10) days prior to such examination:

(1) Birth certificate, or other evidence suitable to the Board, showing that the applicant is sixteen (16) years of age or over;

(2) Evidence that such applicant is a graduate of a beauty culture school which has been licensed by the Board and has completed the hours and months of instruction in a licensed beauty culture school or schools required by this Act, or evidence that such applicant holds either a current or expired license of this State or any other state having requirements similar to the provisions of this Act; all school hours shall count up to the time of the examination;

(3) A certificate of health issued and personally signed by a licensed doctor of medicine showing the applicant to be free from any contagious or infectious disease as determined by an examination, which shall include a Wasserman blood test. No public vocational cosmetology student shall be required to present more than two (2) doctor's health certificates and Wasserman blood tests during completion of the course, provided attendance is continuous except for summer vacation;

(4) Cashier's check or Post Office Money Order in the amount of Ten Dollars ($10) payable to the Board.

(b) The examination given applicants for license to engage in the practice of hairdressing and cosmetology, or manicuring, shall be conducted under rules and regulations promulgated by the Board as hereinabove provided, and shall be conducted in the English language in such manner as to be entirely fair and impartial, in every respect, to all individuals and to every school or system of practice, and shall include practical demonstrations as well as written and oral tests relating to the practice of hairdressing and cosmetology, or manicuring, and in such related subjects as are standard curricula of beauty culture schools which have been licensed by the Board.

The Board is hereby authorized to prescribe the minimum curricula of the subjects and procedures to be taught by beauty culture schools licensed hereunder.

If an applicant passes such examination to the satisfaction of the Board and in accordance with the rules previously promulgated by the Board and which rules have been approved, in writing, by the Attorney General of Texas, as to their validity, and filed in the office of the Secretary of State for public inspection, the Board shall issue a certificate or license to such person so passing the examination, which certificate or license shall be issued under the official seal of the Board and signed by each member of the Board. Such certificate or license so issued shall

entitle the licensee or holder of such certificate to engage in the art, business or trade of hairdressing and cosmetology, or manicuring, as defined herein as the case may be. Such certificate or license or any renewal thereof, shall be conspicuously displayed in the place of business or employment of the licensee. Such certificate or license shall, at all times, include a picture of the applicant in such size and finish as may be prescribed by the Board by regulation, promulgated as herein provided for the promulgation of rules and regulations.

(c) The Board may refuse to grant a license to any applicant taking such examination who shall fail to make an average grade of seventy-five (75) in all subjects upon which such applicant is examined or to any person guilty of fraud, as determined by the Board, in passing such examination.

(d) The Board shall not issue or renew a license to any hairdresser and cosmetologist, manicurist or instructor whose health certificate shows him or her to be infected with any contagious or infectious disease; provided, however, that if said health certificate shows said hairdresser and cosmetologist, manicurist or instructor to be free from any contagious or infectious disease, and otherwise eligible for a license, such license shall be immediately issued.

(e) Any doctor of medicine who shall issue or sign the health certificate of any applicant for an examination for a license hereunder or the health certificate of any licensed hairdresser and cosmetologist, manicurist or instructor showing such person to be free from any contagious or infectious disease without having made a physical examination, including a Wasserman blood test, for the purpose of ascertaining the facts set forth in said certificate, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars ($50) nor more than Two Hundred Dollars ($200). Such health certificate as required by this Act shall show the date of such examination.

(f) Any person coming within the provisions of this Act, at the effective date thereof, holding a valid certificate or license from the Board shall be exempt from the examination required by this section, but such person shall be required to pay the renewal fees to have such license renewed upon its expiration, as provided in this Act.

(g) Any person who holds a license issued by any State whose requirements for a license are equivalent to or exceed the requirements of the State of Texas, and which State recognizes the holder or holders of a license or licenses issued by this State for the issuance of a license in that State, and who furnishes the Board satisfactory proof thereof, may, upon application on forms prescribed by the Board, and approved as to form by the Attorney General, and upon the payment of a fee of Twenty-five Dollars ($25), be issued a license to practice hairdressing and cosmetology, or manicuring in this State, but such person shall be required to pay the annual renewal fees provided in this Act to have such license renewed upon its expiration, as provided in this Act; provided, however, that the Board shall not be required to approve any application and issue any licenses under subsection (g) of Section 4 of this Act, if in the opinion of the majority members of the Board it would be inimical to the public health, morals, safety and welfare.

Schools of beauty culture; teachers' licenses

Sec. 5. (a) Any person, firm, association or corporation applying to the Board for an original certificate of registration or license, as a school of beauty culture, shall make such application in the form prescribed by

the Board, giving the data and information required by the Board. The Board shall, in such applications, require such data, information and facts as it deems necessary to determine such applicant's compliance with this Act and his or its fitness to conduct and maintain such school. No applicant for an original school license shall hereafter be granted an original certificate of registration or license unless it shall have a building approved by the Board, having therein a minimum floor space of not less than three thousand, five hundred (3,500) square feet floor space in a modern fireproof building of permanent type construction. Such space shall be divided into three (3) separate departments, viz: a theory classroom, a room for practical work for seniors, and a room for practical work for juniors, and shall have not less than two (2) modern, sanitary toilets in separate rooms where there are male and female students, and shall possess and have installed the minimum equipment and apparatus required by the Board, sufficient to properly train and fully instruct a minimum of fifty (50) students at one time in all subjects of its curriculum; and such schools shall thereafter maintain the premises and minimum equipment and apparatus; and such applicants shall furnish a good and sufficient surety bond payable to the State of Texas, conditioned to refund any unused portion of tuition paid if such school closes or ceases operation before courses of instruction have been completed. Provided, however, that the requirements as to floor space, type of building, bond requirement and number of licensed instructors shall not apply to Public Vocational Schools.

(b) No school of beauty culture shall be granted a license or certificate of registration unless it shall maintain a sanitary establishment and employ and maintain on its staff not less than two (2) full-time instructors who have been duly licensed as instructors by the Texas State Board, and shall keep a daily record of attendance of students, and shall maintain a regular class and regular instruction hours, establish grades and hold examinations before issuing diplomas, and shall require a school term of not less than six (6) months, and not less than one thousand (1,000) hours of instruction for a complete course of the practice of hairdressing and cosmetology, and shall require a school term of not less than six (6) weeks, and not less than one hundred and fifty (150) hours instruction for a complete course in manicuring; and no student shall work or be instructed or receive credit for more than eight (8) hours of instruction in any one (1) day, exclusive of the lunch period, or for more than six (6) days in any one (1) calendar week, and no public high school student shall be instructed or receive credit for more than six (6) hours of instruction in any one (1) day, exclusive of the lunch period, or for more than five (5) days in any one (1) calendar week.

(c) No school shall enroll any person as a student who has not acquired a seventh grade education or its equivalent; nor any person who is afflicted with any infectious or contagious disease, provided, however, that all examinations by the Board shall be conducted in the English language.

(d) All applicants for a teacher's license shall have had at least three (3) years experience as an operator under a license from the Texas State Board, shall have a current operator's license at the time of applying, shall have a high school education or its equivalent, and shall be required to pass an examination conducted by the Board to determine their fitness as teachers. Provided, that the requirement of three (3) years experience as a licensed operator can have substituted for it at least two thousand (2,000) hours of instruction in a beauty school licensed by the State of Texas, and provided further, that at the time of applying for

the additional one thousand (1,000) hours leading toward an instructor's license, said applicant will not be required to hold an operator's license or take the test for an operator's license, and further provided that the Board shall have authority to establish the curriculum and requirement of said additional instruction. A licensed instructor from another state is eligible to take such instructor examination and after having successfully passed the examination herein provided for an instructor, and upon presentation of his or her instructor's license from his or her respective state, then such out of state licensee shall be issued a Texas instructor's license.

(e) No school shall be permitted to charge for work done by any student who has not completed fifty per cent (50%) of the required number of hours, as provided for in Section 5, Subsection (b); and no school shall be permitted to charge for work done by licensed instructors.

(f) Schools and shops shall not be conducted in the same quarters or upon the same premises unless they are separated by walls of permanent construction with no openings in them, and no school shall employ any licensed operator to perform the services of a hairdresser and cosmetologist, or manicurist, as defined in this Act. This Section shall apply to schools and shops only in the same quarters or upon the same premises.

Fee for beauty shop or parlor; operators to hold license

Sec. 6. Each applicant, to conduct a beauty shop or beauty parlor, as defined in this Act, shall accompany such application with a cashier's check or Post Office Money Order for Ten Dollars ($10), and the certificate issued such applicant shall entitle the person or persons to operate such shop or beauty parlor and no person, firm, association or corporation holding a license to conduct a beauty parlor or beauty shop under this Act shall permit any of the operations of hairdressing and cosmetology or manicuring to be performed in such shop by any person or persons unless such person or persons is, or are, the holder, or holders, of a license from the Board authorizing him or her to perform such operation.

Instructors' licenses

Sec. 7. No person shall be allowed to act as an instructor in a beauty culture school unless such person has been granted a license by the Board to act as an instructor in such a school. All applicants for an instructor's license shall furnish the Board with all information requested by the Board, comply with all of the requirements of the provisions of Section 5(d) of this Act, and comply with all of the requirements required of an applicant for an operator's license.

Duration of license; renewal; itinerant shops

Sec. 8. (a) No certificate or license shall be issued for a longer period than one (1) year, and shall expire on the 31st day of August following the date of issuance. Applications for renewal may be filed at any time after June 1st preceding the expiration date of the license. A licensed beauty shop operator, instructor, operator or manicurist, whose license has expired may, within thirty (30) days thereafter, and not later, have his or her certificate or license renewed by making proper application to the Board, supported by his or her personal affidavit stating the reasons which, if due to illness or absence from the State, or which, in the opinion of the Board, shall excuse the applicant for having failed to renew his or her certificate within the time required by this Act. A reinstatement fee of Five Dollars ($5) shall be required if the application for renewal is made during said thirty (30) day period, but no examination or inspec-

tion of the beauty shop shall be required or made to obtain such renewal. Provided, however, where an instructor, operator, or manicurist retires from the active practice of hairdressing, cosmetology or manicuring, as defined in this Act, for not more than five (5) years, he or she may have his or her license reinstated, without examination, upon proper application to the Board, accompanied by each year's annual renewal fee; and provided, further, that such person shall furnish the Board with a health certificate as provided for under other provisions of this Act; and provided, further, that the Board may refuse to issue or renew such license for any of the causes set forth in this Act.

(b) The annual fee for renewal of license for conducting a beauty shop or beauty parlor, as defined herein, shall be the sum of Five Dollars ($5), but no inspection for renewal shall be made or required as the basis therefor; and the annual fee for renewal of license for operators to engage in the trade or practice of hairdressing and cosmetology shall be the sum of Three Dollars ($3); and the annual renewal fee for a manicurist shall be Two Dollars and Fifty Cents ($2.50); and the annual renewal fee for an instructor shall be Ten Dollars ($10); and the annual renewal fee to conduct a beauty culture school shall be One Hundred Dollars ($100).

(c) The establishment of itinerant shops is hereby expressly prohibited, and it shall be unlawful for any person, firm, association or corporation to operate a beauty shop as defined in this Act, unless the same is a bona fide establishment with a permanent and definite location. Any license granted under the terms of this Act shall permit the licensee to practice in only such bona fide established beauty shop; provided, however, that nothing in this Act shall prohibit the removal or change of location of a beauty shop. Provided, further, that nothing in this Act shall prohibit the establishment of chain beauty shops which have definite and permanent locations and have complied with all the other terms of this law.

Sanitary rules; clerical help; inspectors and inspection

Sec. 9. (a) The said Board shall, with the approval of the State Board of Health and in compliance with the sanitary provisions contained in Article 728–734 of the Penal Code of the State of Texas, prescribe such sanitary rules, as it may determine necessary, and approved in writing by the Attorney General as to their validity and filed in the office of the Secretary of State of Texas for public inspection before same shall be effective, to be employed to prevent the spread of infectious and contagious diseases. Any person who fails to comply with such sanitary rules shall be subject to the penalties provided for in this Act. It shall be unlawful for a person, firm, association or corporation to operate a beauty shop or a beauty school, as defined in this Act, unless the same is a bona fide establishment with a permanent and definite location completely and permanently separated by solid walls, with no openings from rooms used wholly or in part for residential or sleeping purposes. Provided, a person may have a shop in his or her home where the requirements, provisions, and sanitary rules of this Act are complied with.

(b) The salaries and number of clerical help and inspectors for the purpose of enforcing compliance with this Act shall be provided by law. Provided, however, that all the expense of such help and inspectors shall be paid out of the funds derived from the fees provided for by this Act and not otherwise. And no salaries, compensation or expenses provided by any part of this Act shall, in any event, exceed the salaries, compensa-

tion or expenses allowed for like service in the Comptroller's Department by the general appropriation bill.

'(c) No person shall be employed by the Board as an inspector unless such person is at least twenty-five (25) years of age, and has had at least five (5) years actual experience as a hairdresser and cosmetologist or as an instructor under a license issued by the Board, and who shall be a citizen of this State.

(d) The said Board, or any duly appointed agent, shall have authority to inspect any beauty shop, beauty parlor, or beauty culture school at any time during normal business or school hours and in such manner as not to interfere with the conduct or operation of the business or school.

Grounds for refusing, suspending or revoking license

'Sec. 10. The Board may refuse to issue or to renew or may suspend or revoke any license issued in accordance with the provisions of this Act for the following reasons:

(a) Conviction of a licensee of any felony involving moral turpitude under the laws of this State or of any other state or of the United States of America as shown by a certified copy of the judgment of conviction;

(b) Conviction by a Court of competent jurisdiction of a licensee for the violation of any provision of this Act;

(c) Conviction of any misdemeanor involving immoral conduct;

(d) Knowingly making false or misleading statements in any advertising of the licensee's services;

(e) Advertising, practicing, or attempting to practice under the name or trade name of another licensee under this Act;

(f) Habitual drunkenness of a licensee or his or her addiction to the use of any narcotic drug;

'(g) Practicing hairdressing or cosmetology outside of a beauty shop except as provided by Section 12 of this Act.

Conviction as condition of refusal to renew, suspension or revocation; hearings; appeal

Sec. 11. (a) The Board shall neither refuse to renew, nor shall it suspend nor revoke any certificate of registration, for any of the causes enumerated in this Act, except for failure of applicant to furnish the Board with a health certificate and Wasserman test, as required by the provisions of this Act, showing such applicant or licensee to be free from contagious or infectious disease as determined by a general examination and such test, unless the person accused has been convicted of violation of the provisions of this Act in a Court of competent jurisdiction; however, upon any such conviction, the Board may suspend or revoke any such certificate of license or registration after giving the person so convicted at least twenty (20) days written notice of time and place of hearing before the Board for such purpose. Upon the hearing of such proceeding the accused shall have the power to summon witnesses and to require the production of books and records, and to prepare for the purpose of such hearing, and to administer oaths. Any District Court or any Judge of such Court in this State, in term time or in vacation, upon application by the accused or of the Board or a member thereof, may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the Board, in any hearing relating to the refusal, sus-

pension, renewal or revocation, or issuing of a certificate of registration, and may order the sheriff or any other peace officers of the County wherein said order is made and entered to serve such process as may be issued in order to compel the attendance of witnesses before said Board, for which services so rendered by such officer or officers the fees and mileage of the sheriff and of witnesses shall be the same as allowed in criminal cases and shall be paid from the fund of the Board as herein provided for, as other expenses of the Board are paid. However, the officers shall make claim for fees as in criminal cases and be paid upon warrant drawn by the Comptroller as in criminal cases. If the accused shall prevail at such hearing, the Board shall grant him the proper relief without delay. Any investigation, inquiry, or hearing thus authorized may be entertained or held by or before a majority of the members of the Board and the finding or order of such members, when approved and confirmed by the Board, shall be deemed a finding or order of the Board, and at such hearing the Board may be represented by the District Attorney or County Attorney, or the Attorney General of Texas.

(b) In such hearing, or other proceeding hereunder, the Board shall be represented by the Attorney General, District Attorney of the District, or the County Attorney of the county in which the hearing or other proceeding is conducted, or on their failure or refusal to act within a reasonable time, after requested so to do, the Board may employ private counsel to represent the Board, and reasonable compensation shall be paid such counsel from the funds herein provided for as any other expense; provided, however, such private counsel shall be employed only for the conduct of the pending matter, and the Board shall not be authorized hereby to place a private attorney upon an annual retainer or on a regular salary. If the Board suspends, revokes or refuses to issue or renew such license at said hearing, then such person may file suit to prevent same or to appeal from said order, and be entitled to a trial de novo, as such term is commonly used and intended in an appeal from the Justice Court to the County Court; and it is expressly provided that in such appeals on a trial de novo that the 'substantial evidence rule' shall not apply, and which appeal shall be taken in any District Court of the county in which the person whose license is involved, resides. Any and all such suits filed hereunder shall be filed within twenty (20) days from the date of the order of said Board. Service of such order shall be by registered mail, with return receipt as evidence thereof. The venue in all suits instituted hereunder, civil or criminal, shall be filed in the county of the residence of the person whose license is involved.

Services excepted; license of hair cutters and manicurists

Sec. 12. Nothing in this Act shall prohibit service in case of emergency, or domestic administration, nor service by persons authorized under the laws of this State to practice medicine, surgery, dentistry, chiropody, osteopathy, or chiropractic; nor registered nurses; nor service by any licensed barber engaged in the usual and ordinary duties of their vocations; and nothing herein contained shall be construed to mean that a barber, working in a beauty shop in the capacity of a haircutter only, shall be subject to the provisions of this Act, provided that any person who works in a beauty shop in the capacity of a haircutter shall be a licensed barber and any person who works in a barber shop in the capacity of a manicurist as herein defined shall be licensed as a manicurist. Provided, further, that nothing in this Act shall prohibit a person licensed under this Act from performing duties as prescribed by this Act in the home of a customer in cases of emergency, when sent by a shop owner. Pro-

vided, further, that nothing in this Act shall, in any manner apply to, limit or prohibit the arranging, dressing, curling, waving, cleansing, singeing, bleaching, coloring of, or any work upon the hair of a person when performed in a private home without charge of fee. Nothing in this Act shall be construed so as to prevent bona fide salesmen from demonstrating any preparations herein referred to.

Disposition of funds

Sec. 13. (a) Any and all sums of money paid into the State Treasury and credited to the State Board of Hairdressers and Cosmetology Fund shall be, and the same are hereby, appropriated for the fiscal years ending August 31, 1936, and for August 31, 1937, and each succeeding year thereafter to be expended under the direction of the Legislature as may be provided by law.

(b) On August 31st of each year the Board shall file with the State Comptroller its annual report in such form as may be required by the Comptroller.

(c) Ten per cent (10%) of all moneys received by the Board shall be paid into the General Revenue Fund of the State of Texas at the end of each fiscal year.

(d) Nothing herein shall affect, impair, modify, amend, or change any funds credited to the State Board of Hairdressers and Cosmetology Fund at the effective date of this Act. All funds received by the said Board during the remainder of the biennium ending August 31, 1953, shall likewise be applied as provided by law prior to the effective date hereof, and especially as provided in the Departmental Appropriation Bill, Acts, 1945, Forty-ninth Legislature, Chapter 378.

(e) It is hereby specifically provided that if for any reason an applicant pays money to the Board for application fees for license or any other fees provided for under this Article, and when such applicant fails to take the examination as required by this law, then the Board of Hairdressers and Cosmetologists is hereby authorized and directed to refund the amount of money paid by such applicant from the moneys in the State Board of Hairdressers and Cosmetology Fund.

Infectious and contagious diseases

Sec. 14. It shall be unlawful for the owner, operator or manager of a beauty shop or beauty culture school to knowingly permit any person suffering from an infectious or contagious disease to act as an employee or operator or student within such beauty shop or beauty culture school. It shall be unlawful for any hairdresser, cosmetologist, manicurist or instructor, who, in his or her own knowledge, is suffering an infectious or contagious disease, to practice the operations of a hairdresser, cosmetologist, manicurist or instructor.

Offenses

Sec. 15. Each of the following offenses shall constitute a misdemeanor punishable on conviction in a Court of competent jurisdiction by a fine of not less than Twenty-five Dollars ($25) nor more than One Hundred Dollars ($100):

(a) The violation of any of the provisions of this Act;

(b) Obtaining or attempting to obtain a license by false representation;

(c) The willful failure to display a license as required by this Act.

Sec. 16. The willful making of any false statement as to material matter in any oath or affidavit which is required by the provisions of this Act to be made is false swearing and punishable as such under the laws of this State.

Act cumulative; repeals

Sec. 17. This Act is cumulative of all other laws relating to hairdressing, cosmetology, manicuring, beauty culture schools and instructors therein, and beauty shops. All laws or parts of laws in conflict herewith are hereby repealed.

Partial invalidity

Sec. 18. In case any one (1) or more of the Sections or provisions of this Act, or the application of such Sections or provisions to any situation, circumstance or person, shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other Section or provision of this Act or the application of such Section or provision to any other situation, circumstance or person, and it is intended that this law shall be construed and applied as if such invalid Section or provisions had not been included herein. As amended Acts 1953, 53rd Leg., p. 605, ch. 242, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER SIX—MEDICINE

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 shall diagnose, 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. Who shall diagnose, 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. As amended Acts 1949, 51st Leg., p. 160, ch. 94, § 20(b); Acts 1953, 53rd Leg., p. 1029, ch. 426, § 11.

Art. 743. Failure to register or pay annual fee; prosecutions not abated by reinstatement

If any person required to register as a practitioner of medicine under the provisions of Article 4498a of the Revised Civil Statutes of Texas of 1925, as amended, shall fail, neglect, or refuse to apply for and pay such annual registration fee as provided for in Article 4498a of the Revised Civil Statutes of Texas, he 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) and by imprisonment in the county jail for not more than thirty (30) days. Each day of such violation shall be a separate offense. Provided, however, that if any such practitioner

licensed by the Texas State Board of Medical Examiners shall have had any prosecutions filed against him when such license stood suspended, revoked or cancelled, or if any penalties have been incurred by such practitioner during such period, any reinstatement of said practitioner shall in no way abate such prosecutions or penalties. As amended Acts 1953, 53rd Leg., p. 1029, ch. 426, § 12.

CHAPTER SEVEN—DENTISTRY

Article 747. Dentist to obtain license

It shall be unlawful for any person to practice, or offer to practice, dentistry in this State or hold himself out as practicing dentistry in this State without first having obtained a license from the State Board of Dental Examiners. Said license must be signed by all the members of the Board and shall have imprinted thereon the official seal of the Board. As amended Acts 1953, 53rd Leg., p. 721, ch. 281, § 4.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 753. Exceptions

The definition of dentistry as contained in Chapter 7, of Title 12, of the Revised Penal Code of Texas, as amended, shall not apply to: (1) members of the faculty of a reputable dental college or school where such faculty members perform their services for the sole benefit of such school or college; or to (2) students of a reputable dental college who perform their operations without pay except for actual cost of materials, in the presence of and under the direct personal supervision of a demonstrator or teacher who is a member of the faculty of a reputable dental college; or to (3) persons doing laboratory work on inert matter only, and who do not solicit or obtain work, by any means, from a person or persons not a licensed dentist actually engaged in the practice of dentistry and who do not act as the agents or solicitors of, or have any interest whatsoever in, any dental office, practice or the receipts therefrom, or to (4) physicians and surgeons legally authorized to practice medicine as defined by the law of this State, or to (5) dental hygienists legally authorized to practice dental hygiene in this State and who practice dental hygiene in strict conformity with the laws of Texas regulating the practice of dental hygiene, or to (6) those persons who as members of an established church practice healing by prayer only. Nothing in this Act applies to one legally engaged in the practice of dentistry in this State at the time of the passage of this law, except as hereinbefore provided. As amended Acts 1951, 52nd Leg., p. 427, ch. 267, § 3; Acts 1953, 53rd Leg., p. 721, ch. 281, § 6.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 754. Punishment

Any person who shall violate any provision of this Chapter or of Chapter Nine of the Revised Civil Statutes of Texas, as amended, shall be fined not less than One Hundred Dollars ($100), nor more than One Thousand Dollars ($1,000), or be confined in jail from one (1) to twelve (12) months or both. Each day of such violation shall be a separate offense. As amended Acts 1953, 53rd Leg., p. 721, ch. 281, § 3.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 754a. Persons regarded as practicing dentistry

(2) Who shall offer or undertake by any means or methods whatsoever, to clean teeth or to remove stains, concretions or deposits from teeth in the human mouth, or who shall undertake or offer to diagnose, treat, operate, or prescribe by any means or methods for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, oral cavity, alveolar process, gums, or jaws. As amended Acts 1953, 53rd Leg., p. 721, ch. 281, § 2.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER NINE—EMBALMING

Arts. 759–762a. Repealed. Acts 1953, 53rd Leg., p. 661, ch. 251, § 7. Eff. June 4, 1953

Funeral directing and embalming, see Vernon's Ann.Civ.St., art. 4582b.

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

CHAPTER ONE—HIGHWAYS AND VEHICLES

Art.
827a—2. Weight of vehicles transporting ready-mix concrete [New].

Art. 802. Driver intoxicated or under influence of intoxicating liquor

Any person who drives or operates an automobile or any other motor vehicle upon any public road or highway in this State, or upon any street or alley within the limits of an incorporated city, town or village, while such person is intoxicated or under the influence of intoxicating liquor, shall be guilty of a misdemeanor and upon conviction shall be punished by confinement in the county jail for not less than three (3) days nor more than two (2) years, and by a fine of not less than Fifty ($50.00) Dollars nor more than Five Hundred ($500.00) Dollars. Provided, however, that the presiding judge in such cases at his discretion may commute said jail sentence to a probation period of not less than six (6) months. As amended Acts 1953, 53rd Leg., p. 480, ch. 167, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 827a, sec. 3. Width, length and height

(a) No vehicle shall exceed a total outside width, including any load thereon, of ninety-six (96) inches, except that the width of a farm tractor shall not exceed nine (9) feet, and except further, that the limitations as to size of vehicle stated in this section shall not apply to implements of husbandry, machinery used solely for the purpose of drilling water wells regardless of whether it is a unit in itself or is a unit mounted on a conventional vehicle or chassis, and highway building and maintenance machinery temporarily propelled or moved upon the public highways. As amended Acts 1953, 53rd Leg., p. 798, ch. 321, § 2.

Emergency. Effective June 8, 1953.

Section 1 of the amendatory Act of 1953 amended Vernon's Ann.Civ.St. art. 6675a—

2. Section 3 repealed conflicting laws and parts of laws to the extent of the conflict.

(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 vehicle 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 any disabled vehicle being towed by another vehicle to the nearest intake place for repairs; provided further, that the above limitations shall not apply to any mobile home or to any combination of a mobile home and a motor vehicle, but no mobile home and motor vehicle combination shall exceed a total length of fifty-five (55) feet. "Mobile home" as used herein means a living quarters equipped and used for sleeping and eating and which may be moved from one location to another over a public highway by being pulled behind a motor vehicle. No mobile home, as the same is defined herein, shall be entitled to the exemption contained in this sub-section unless the owner thereof shall have paid all taxes, including ad valorem taxes, and fees due and payable under the laws of this State, levied on said mobile home. As amended Acts 1949, 51st Leg., p. 870, ch. 469, § 1; Acts 1953, 53rd Leg., p. 438, ch. 126, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Amendment by Acts 1953, 53rd Leg., p. 501, ch. 179, § 1, see art. 827a, § 3(C), post.

(C) No motor vehicle, commercial motor vehicle, truck-tractor, trailer, or semitrailer 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. Provided, however, "motor buses", as defined in Acts, 1929, Forty-first Legislature, Second Called Session, Chapter 88, as amended,[1] exceeding thirty-five (35) feet in length, but not exceeding forty (40) feet in length may be lawfully operated over the highways of this State if such motor buses are equipped with air brakes and have a minimum of four (4) tires on the rear axle. As amended Acts 1949, 51st Leg., p. 870, ch. 469, § 1; Acts 1953, 53rd Leg., p. 501, ch. 179, § 1.

1 Article 6675a—1 et seq.

Effective 90 days after May 27, 1953, date of adjournment.

Amendment by Acts 1953, 53rd Leg., p. 438, ch. 126, § 1, see art. 827a, § 3(C), ante.

Art. 827a, sec. 6. Weighing loaded vehicles by inspectors

Sec. 6. Subdivision 1. Any License and Weight inspector of the Department of Public Safety, any highway patrolman or any sheriff or

his duly authorized deputy, having reason to believe that the gross weight or axle load of a loaded motor vehicle is unlawful, is authorized to weigh the same by means of portable or stationary scales furnished or approved by the Department of Public Safety, or cause the same to be weighed by any public weigher, and to require that such vehicle be driven to the nearest available scales for the purpose of weighing. In the event the gross weight of such vehicle be found to exceed the maximum gross weight authorized by law, plus a tolerance allowance of five per cent (5%) of the gross weight authorized by law, such license and weight inspector, highway patrolman, sheriff or his duly authorized deputy, shall demand and require the operator or owner of such motor vehicle to unload such portion of the load as may be necessary to decrease the gross weight of such vehicle to the maximum authorized by law plus such tolerance allowance. Such operator or owner shall forthwith unload such vehicle to the extent necessary to reduce the gross weight thereof to such lawful maximum and such vehicle may not be operated further over the public highways or roads of the State of Texas until the gross weight of such vehicle has been reduced to a weight not in excess of the maximum limit plus such tolerance allowance. In the event the axle load of any such vehicle be found to exceed the maximum authorized by law, plus a tolerance allowance of five per cent (5%) of the axle load authorized by law, such officer shall demand and require the operator or owner thereof to rearrange his cargo, if possible, to bring such vehicle and load within the maximum axle load authorized by law, and if this cannot be done by rearrangement of said cargo, then such portion of the load as may be necessary to decrease the axle load to the maximum authorized by law plus such tolerance allowance shall be unloaded before such vehicle may be operated further over the public highways or roads of the State of Texas. Provided, however, that if such load consists of livestock, then such operator shall be permitted to proceed to destination without being unloaded provided destination be within the State of Texas.

It is further provided that in the event the gross weight of the vehicle exceeds the registered gross weight, the License and Weight Inspector, State Highway Patrolman or Sheriff or his duly authorized Deputy shall require the operator or owner thereof to apply to the nearest available County Tax Assessor-Collector for additional registration in an amount that will cause his gross registration to be equal to the gross weight of the vehicle, provided such total registration shall not exceed the legal gross weight allowed for such vehicle, before such operator or owner may proceed. Provided, however, that if such load consists of livestock or perishable merchandise then such operator or owner shall be permitted to proceed with his vehicle to the nearest practical point in the direction of his destination where his load may be protected from damage or destruction in the event he is required to secure additional registration before being allowed to proceed. It shall be conclusively presumed and deemed prima facie evidence that where an operator or owner is apprehended and found to be carrying a greater gross load than that for which he is licensed or registered, he has been carrying similar loads from the date of purchase of his current license plates and will therefore be required to pay for the additional registration from the date of purchase of such license. Provided further that when an operator or owner is required to purchase additional registration in a county other than the county in which the owner resides, the Tax Assessor-Collector of such county shall remit the fees collected for such additional registration to the State Highway Department to be deposited in the State Highway Fund. It shall be the duty of the State Highway Department, and the necessary funds are hereby

appropriated, to remit the counties' portion of such fees collected to the county of the residence of the owner; and it is provided further that the provisions of this Section will in no way conflict with Article 6675a, Section 2, of the Revised Civil Statutes.

It is further provided that all forms and accounting procedure necessary to carry out the provisions of this Section shall be prescribed by the State Highway Department.

Subdivision 2. The officers named herein are the only officers authorized to enforce the provisions of this Act.

Subdivision 3. It shall be unlawful for any of the persons, officers or deputies authorized to enforce the weighing and unloading provisions of this Act, to accept or agree to accept any gift, emolument, money or thing of value, privilege or the promise of either, from any person, firm, corporation, association, partnership, or the officers, agents, servants, or employees thereof as an inducement to enforce or attempt to enforce the weighing and unloading provisions of this Act. Any person who violates the provisions of this Section shall be guilty of a felony and upon conviction shall be punished as provided in Article 159, Penal Code of Texas.

Subdivision 4. It shall be unlawful for any person, firm, corporation, association, partnership, or the officers, agents, servants or employees thereof, to give, or offer to give or promise to give to any of the persons, officers or deputies authorized to enforce the weighing and unloading provisions of this Act, any gift, emolument, money or thing of value, privilege, or the promise of either, as an inducement to enforce or attempt to enforce the weighing and unloading provisions of this Act. Any person who violates the provisions of this Section shall be guilty of a felony and upon conviction shall be punished as provided in Article 158, Penal Code of Texas.

Provided, however, if a corporation shall be convicted of a violation of any of the provisions of this Section the penalty shall be a fine of not less than One Hundred Dollars ($100) nor shall be a fine of not more than Five Thousand Dollars ($5,000) for each such offense.

Subdivision 5. The inhibitions in Subdivisions 3 and 4 above shall not apply to the regular compensation paid to such persons or officers by the State or a county of this State. As amended Acts 1951, 52nd Leg., p. 189, ch. 116, § 1; Acts 1953, 53rd Leg., p. 892, ch. 368, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the amendatory Act of 1953 provided that partial unconstitutionality should not affect the validity of the remaining portions of the act. Section 3 repealed conflicting laws and parts of laws to the extent of such conflict.

Art. 827a—2. Weight of vehicles transporting ready-mix concrete

For a period of two (2) years commencing September 7, 1953, vehicles used exclusively to transport ready-mix concrete may be operated upon the public highways of this State with a tandem axle load not to exceed thirty-six thousand (36,000) pounds, provided that where the vehicle is to be operated with a tandem axle load in excess of thirty-two thousand (32,000) pounds, the owner of such vehicle shall first file with the State Highway Department a surety bond in the principal sum as fixed by the State Highway Department, which sum shall not be set at a greater amount than Ten Thousand Dollars ($10,000) for each vehicle; said bond to be conditioned that the owner of such vehicle will pay to the State of Texas, within the limit of such bond, all damages done to the

highways by reason of the operation of such vehicle with a tandem axle load in excess of thirty-two thousand (32,000) pounds; such bond shall be in an amount to be fixed by the State Highway Department and shall be subject to the approval of the State Highway Department. Acts 1953, 53rd Leg., p. 747, ch. 293, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Title of Act:

An Act providing that for a period of two (2) years commencing September 7, 1953, vehicles used exclusively to transport ready-mix concrete may be operated upon the public highways of this State with a tandem axle load not to exceed thirty-six thousand (36,000) pounds by first filing with the State Highway Department a properly conditioned surety bond; and declaring an emergency. Acts 1953, 53rd Leg., p. 747, ch. 293.

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, oats, rye, barley, grain sorghums, flax, rice; vegetables in bulk, field crates, or bags, produced in this State, the Department is authorized to issue to a non-resident owner a thirty (30) day temporary registration permit for any truck, truck-tractor, trailer or semi-trailer to be used in the movement of such commodities from the place of production to market, storage or rail head, not more than seventy-five (75) miles distant from such place of production. Any person who shall transport any of the commodities described in this Act, under the temporary permit provided herein, to a market, place of storage or rail head more than seventy-five (75) miles distant from the place of production of such commodity so transported, shall be punished by a fine of not less than Twenty-five ($25.00) Dollars, nor more than Two Hundred ($200.00) Dollars. 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-twelfth (1/12) 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 thirty (30) days from the date of issuance. Not more than two such temporary registration permits may be issued to a non-resident owner during any one vehicle registration year in the State of Texas. 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 secures a second temporary permit as provided above, or 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 Texas 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, as amended Acts 1953, 53rd Leg., p. 397, ch. 111, § 1.

Emergency. Effective May 12, 1953.

Section 1A of the amendatory Act of 1953 repealed Laws 1949, 51st Leg., Reg. Session, ch. 70, § 2, which provided that the Act of 1949 should expire June 1, 1953. Section 2 of the Act of 1953 and section 3 of the Act of 1949 provided that partial unconstitutionality should not affect the validity of remaining portions of the Act. Section 3 of the Act of 1953 and section 4 of the Act of 1949 repealed conflicting laws and parts of laws to the extent of the conflict.

CHAPTER SIX—GAME, FISH AND OYSTERS

Art. 880. Hunting with dogs

Section 1. 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, 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; Acts 1953, 53rd Leg., p. 528, ch. 192, § 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 1953, 53rd Leg., p. 528, ch. 192, § 1.

Emergency. Effective May 19, 1953.

Amendment by Acts 1953, 53rd Leg., p. 886, ch. 365, see art. 880, post.

Section 2 of the amendatory Act of 1953, p. 528, ch. 192, read as follows: "This Ac shall not be construed as repealing, amending, or altering in any way the provisions of any other Act of the Legislature, the sole purpose of this Act being to remove Jackson County from the list of counties to which the prohibition against the hunting, pursuing, or taking of deer with dogs does not apply."

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, Fort Bend and Shelby. 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.

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. 14, ch. 16, § 1; Acts 1953, 53rd Leg., p. 886, ch. 365, § 1.

Emergency. Effective June 8, 1953.

Amendment by Acts 1953, 53rd Leg., p. 528, ch. 192, § 1, see art. 880, ante.

Art. 882a. Temporary closed seasons because of fire hazards

If the State Forester determines that the continuation of any hunting season is likely to cause a serious forest fire hazard in any of the following counties of this State, Red River, Titus, Camp, Harrison, Gregg, Henderson, Van Zandt, Anderson, Nacogdoches, Angelina, San Augustine, Sabine, Trinity, Walker, Montgomery, Polk, Liberty, Tyler, Hardin, Jasper, Newton, Grimes and San Jacinto, he shall immediately notify the State Game and Fish Commissioner of such local conditions and recommend that any hunting season then open be closed temporarily. The State Game and Fish Commissioner shall make a complete statement of the local conditions which contribute to the danger of a fire hazard and forward such statement to the Governor of the State of Texas. If the Governor shall find that an extreme fire hazard exists, he shall proclaim a closed season to remain in effect in such county or counties until the danger abates. The Governor of the State of Texas may revoke such proclamation at any time the best interests of the people of Texas may require. Acts 1953, 53rd Leg., p. 1019, ch. 419, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 2 of the Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict.

Title of Act:

An Act permitting the closing of a hunting season in certain counties where a fire hazard is found to exist; prescribing a manner to determine such a condition; repealing laws to extent of conflict; and declaring an emergency. Acts 1953, 53rd Leg., p. 1019, ch. 419.

Art. 893. Forfeiture of license

Section 1. Any person charged in any court in this State with an offense of violating any law which it is the duty of the Game and Fish Commission to enforce shall have the right to have the court or jury before which said person is tried either to forfeit the license of said person so charged or to restore said license to said person so charged for the remainder of the license period. The court shall so state in its judgment whether or not the license of said person is revoked or whether or not said person shall retain same.

Sec. 2. If any person shall receive, purchase or possess any license within one (1) year after forfeiture thereof, or shall hunt, fish, trap or deal in or buy game, fish or fur, or use fishing gear within one (1) year after forfeiture of such privilege, or shall otherwise violate any pro-

vision of this Act, he 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. As amended Acts 1953, 53rd Leg., p. 11, ch. 5, § 1.

Emergency. Effective Feb. 18, 1953.

Sections 2 to 4 of the amendatory Act of 1953 read as follows:

"Sec. 2. The provisions of this Act shall not be construed to affect any forfeiture incurred under existing laws prior to the effective date of this Act, but this Act shall control any judgment pronounced after this Act shall take effect for any violation permitted before that time, when any forfeiture shall have been mitigated by the provisions hereof.

"Sec. 3. 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.

"Sec. 4. All laws, or parts of laws, local, general or special, are hereby repealed to the extent that they conflict with any provision of this Act."

Art. 895b. Hunting licenses; necessity, form, etc.; offenses; disposition of revenues

Nonresident Hunting License

Sec. 2. No non-resident citizen of this State or alien shall hunt with a gun in this State without first having procured from the Game and Fish Commission, or one of its authorized agents, a non-resident hunting license. The fee for a non-resident citizen or alien hunting license shall be Twenty-five ($25.00) Dollars; Three ($3.00) Dollars of such amount shall be retained by the officer issuing such license as his fee for collecting, issuing, and making report on license so issued and for remitting the remaining Twenty-two ($22.00) Dollars to the Game and Fish Commission; provided, however, that a hunting license entitling the holder thereof to hunt migratory birds only for a period of five consecutive days shall be issued to any person entitled to a non-resident citizen or alien hunting license upon payment of a fee of Five ($5.00) Dollars, Fifty (50¢) Cents of which amount shall be retained by the issuing officer. As amended Acts 1953, 53rd Leg., p. 452, ch. 137, § 1.

Emergency. Effective May 14, 1953.

Art. 908. Hunting on game preserves for pay

It is hereby declared unlawful for any person or persons, who may be acting as manager of any club, or the owner of any club, or shooting resort or shooting preserve, or lessor of premises leased for hunting purposes, to receive or accommodate as a guest or member of said club, or shooting resort, or shooting preserve, or lessee of premises leased for hunting purposes, for pay, any person or persons engaged in hunting, before such manager of such club, shooting resort, shooting preserve, or premises leased for hunting purposes, shall have applied for and received a license from the Game and Fish Commissioner, or one of his deputies, granting him the right for the year beginning September 1 and ending August 31, following, to receive and accommodate any such person or persons at such club, shooting resort, shooting preserve, or premises leased for hunting purposes.

A "shooting preserve" is defined as any premises leased for hunting purposes which is a separate, unconnected, and distinct tract of land with a continuous and unbroken boundary.

There shall be issued one license for each "shooting preserve" in the manner prescribed by this Section.

Before such license is issued the person applying for same shall pay to the Game and Fish Commissioner the sum of Five Dollars ($5) and shall file with the Game and Fish Commissioner the name of said club, shooting resort, shooting preserve or premises leased for hunting purposes, and shall file with the Game and Fish Commissioner an affidavit that he will not violate any of the provisions of this Section and will endeavor to prevent guests of said club, shooting resort, shooting preserve, or premises leased for hunting purposes from doing so, and that no guest will be accommodated who has not previously secured a hunting license.

All such managers of clubs, shooting resorts, shooting preserves, and premises leased for hunting purposes shall be required to keep a suitable record book, and each guest or member shall be required to register, showing his name and place of residence, license number, and a record of each day's kill of different birds and game, and a complete record must be made to the Game and Fish Commissioner by such manager of club, shooting resort, shooting preserve, or premises leased for hunting purposes, not later than February 10 of each year.

Whenever any manager of any club, shooting resort, shooting preserve, or premises leased for hunting purposes, fails or refuses to comply with any of the provisions of this Section, the Game and Fish Commissioner is authorized and empowered to cancel his license without refund or return of the license fee, and no license shall be renewed or issued to such party, or parties, thereafter for a period of one year.

Any manager of any club, shooting resort, shooting preserve, or premises leased for hunting purposes, who accommodates hunters for reward, without first having secured the necessary license as provided in this Section, or failing to comply with all the provisions thereof, shall be deemed guilty of a misdemeanor and upon conviction shall be fined the sum of not less than Twenty-five Dollars ($25) nor more than Two Hundred Dollars ($200), or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment. Such fines shall be placed to the credit of the special game fund.

For the purpose of carrying out the provisions of this Section, it shall be the duty of the Game and Fish Commissioner to have prepared and to furnish to all deputy game commissioners blank license with stubs attached, numbered serially, such license to be called 'Shooting Preserve License'; such shooting preserve license shall have printed across the face the year for which it is issued, shall bear the name and address of the licensee, name of club, character of game found on such preserve or lease, and the expiration date of such license. Said license must bear the seal of the Game and Fish Commission, and must be signed by the Commissioner or one of his deputies. On the reverse side of said license shall be printed the open seasons and bag-limit, as provided in this Chapter. As amended Acts 1953, 53rd Leg., p. 854, ch. 346, § 1.

Emergency. Effective June 8, 1953.

Section 2 of the amendatory Act of 1953 repealed conflicting laws or parts of laws to the extent of such conflict.

Art. 978f—4. Grazing leases; sale of timber, hay and other products

Section 1. The Game and Fish Commission is hereby authorized to lease grazing rights on any lands acquired by, and for the use of, the Game and Fish Commission. The Game and Fish Commission is further authorized to harvest and sell, or to sell in place, any timber, hay or other

product grown on such lands when same is found to be in excess of wildlife management needs.

Sec. 2. Any sale or lease as provided for in Section 1 of this Act shall be made by the State Board of Control under the general provisions of law governing the sale of State property, provided that the Game and Fish Commission shall direct the quantity of products, or grazing lease, to be offered for sale.

Sec. 3. All revenues derived because of the provisions of this Act shall be deposited in the State Treasury, to the credit of the Special Game and Fish Fund. Acts 1953, 53rd Leg., p. 750, ch. 298.

Emergency. Effective June 5, 1953.

Title of Act:

An Act authorizing the leasing of grazing rights upon, and the sale of timber or other valuable products taken from, lands acquired by the Game and Fish Commission for use as game management areas; providing the grazing lease or product sales shall be made by the State Board of Control; providing for distribution of funds received under the provisions of this Act; and declaring an emergency. Acts 1953, 53rd, Leg., p. 750, ch. 298.

Art. 978j. Local game and fish laws

For fish and game law applicable only to the named counties, see notes under Vernon's Ann.Pen.Code, art. 978j.

Art. 978o. Pen raised quail

Propagation and sale authorized

Section 1. Any person, firm or corporation may engage in the business of propagating pen raised quail for commercial purposes by complying with the provisions of this law, and may thereafter sell the carcass of such pen raised quail for any purpose, including sale for food.

Definition

Sec. 1a. A pen raised quail is a quail that has been hatched from an egg laid by a quail confined in a pen or coop and has itself been wholly raised in a pen or coop.

License

Sec. 2. A Commercial Quail Breeder's License must first be obtained from the Texas Game and Fish Commission. Said license may be obtained only during the month of July of each year and is to be valid for one year from the date of purchase and upon payment of Twenty-five ($25.00) Dollars for each of said licenses. Each Commercial Quail Breeder's License must be numbered by the Texas Game and Fish Commission.

Rubber stamp

Sec. 3. The holder of each Commercial Quail Breeder's License must keep and maintain a rubber stamp which shall have written thereon the number of the Commercial Quail Breeder's License issued to him by the Texas Game and Fish Commission and in addition the following: Texas Game and Fish Commission—Commercial Quail Breeder's License.

Stamping and marking carcasses; manner of killing

Sec. 4. Before the carcass of a dead pen raised quail is sold, the holder of the Commercial Breeder's License shall plainly stamp and mark each

such carcass sold or offered to be sold with said rubber stamp. Any sale or purchase of the carcass of a pen raised quail not so stamped and marked shall be a violation of this law. All pen raised quail to be offered for sale must be killed otherwise than by shooting. The carcass of any quail that shows that it has been killed by shooting shall be prima facie evidence that such quail was not raised in accordance with this law; and the fact that such quail has been stamped and marked in accordance with this law shall not alter this presumption.

Sale by hotel, restaurant, boarding house or club

Sec. 5. The keeper of a hotel, restaurant, boarding house or club may sell pen raised quail for food to be consumed on the premises, and shall not be required to hold a license therefor.

Violations; punishment

Sec. 6. Any person, firm or corporation that violates any provision of this law 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 for each offense. Acts 1953, 53rd Leg., p. 689, ch. 264.

Emergency. Effective June 4, 1953.

Section 7 of the Act of 1953 repealed conflicting laws or parts of laws.

Title of Act:

An Act to authorize the propagation of quail for commercial food purposes; to require licensing of such business by the Texas Game and Fish Commission; requiring Commercial Breeder's Licenses by the Texas Game and Fish Commission; to require the numbering of each Commercial Quail Breeder's License; to require each holder of a Commercial Quail Breeder's License to keep and maintain a rubber stamp for marking the carcass of each quail sold; to require killing of such quail only by means other than shooting; to allow hotels, restaurants, boarding houses and clubs to sell such pen raised quail for consumption on their premises; providing penalty for violation of the provisions of this law; repealing all laws in conflict herewith; and declaring an emergency. Acts 1953, 53rd Leg., p. 689, ch. 264.

TITLE 14—TRADE AND COMMERCE

CHAPTER FIVE—WEIGHTS AND MEASURES

Art. 1042b. Sale of wheat and other flowers or corn meal in other than standard packages forbidden

Sec. 3. Each package of wheat flour, whole wheat flour, graham flour, other cereal flour and corn meal shall have the net weight, the name and address of the manufacturer (meaning the person, firm, association, or corporation which processes the wheat or other cereal into flour or which processes the corn into meal) or packer, if such was not packed by the manufacturer, or the distributor, printed or plainly marked on it in letters and figures clearly readable; and that it shall be unlawful for any wheat flour, whole wheat flour, graham flour, other cereal flour or corn meal, to be packed for sale, offered for sale or sold within the State of Texas unless it shall be so labeled. If the name shown is not that of the actual manufacturer, it must be preceded by the words 'Manufactured for and Packed by,' 'Distributed by,' or other similar phrase. Provided, however, that reasonable rules and regulations for the efficient enforcement of this Act not inconsistent herewith and including reasonable variations or tolerances shall be made by the Commissioner of Agriculture. As amended Acts 1953, 53rd Leg., p. 831, ch. 334, § 1.

Emergency. Effective June 8, 1953.

CHAPTER EIGHT—BLUE SKY LAW OF TEXAS

Art. 1083a. Transferred to Civil Statutes, Art. 600a, § 30

This article was based on Acts 1935, 44th Leg., p. 255, ch. 100, § 30, as amended by Acts 1951, 52nd Leg., p. 624, ch. 370, § 4. It was enacted as a part of the Securities Act of 1935, constituting article 600a of the Revised Civil Statutes, and provided a penalty for enumerated violations of such Act.

CHAPTER ELEVEN-A—STORES AND MERCANTILE ESTABLISHMENTS

Art. 1111d. Operating stores or mercantile establishments without license unlawful

Coin operated machines; exception of establishments

Sec. 7a. Establishments and places of business merchandising or selling goods, wares, and merchandise only through coin-operated machines are not covered by provisions of this Act and thereby are not required to pay any tax or fees levied by this Act. Added Acts 1953, 53rd Leg., p. 456, ch. 142, § 2.

Effective 90 days after May 27, 1953, date of adjournment.

CHAPTER TWELVE—MISCELLANEOUS OFFENSES

Art. 1112a. Repealed. Acts 1953, 53rd Leg., p. 53, ch. 42, § 1. Eff. March 24, 1953

TITLE 17—OFFENSES AGAINST PROPERTY

CHAPTER THREE—MALICIOUS MISCHIEF

Art. 1351a. Misuse of grazing land under one fence, injunction

Sec. 1-b. The words "owner" or "lessee" used in the foregoing Sections shall be interpreted to mean: "owner or lessee as shown by deed, lease or other written instrument of record in the county clerk's office in the county where the land claimed to be owned or leased is located." Added Acts 1953, 53rd Leg., p. 399, ch. 112, § 1.

Section 2 of Acts 1953, 53rd Leg., p. 399, ch. 112, provided that partial invalidity should not affect the remaining provisions of the Act, and declared the provisions of the Act severable.

CHAPTER FOUR—TIMBER AND LOGS

Art. 1379. [1289-90] Cutting, destroying, or carrying away timber

Whoever, without the consent of the owner thereof, shall cut down or destroy any merchantable timber not his own, except by accident or mistake, or whoever, without the consent of the owner thereof, shall carry

away any merchantable timber not his own, except by accident or mistake, shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. The words "merchantable timber" as used herein include rails or other articles manufactured from merchantable timber; the word "owner" includes the State and any corporation, public or private, individual, partnership, or association; the words "carry away" as used herein include any taking of any merchantable timber and the removal thereof any distance from the place of taking, with the intent to deprive the owner of the value of the same, and to appropriate it to the use and benefit of the person taking it. As amended Acts 1953, 53rd Leg., p. 1020, c. 420, § 1.

CHAPTER EIGHT—THEFT IN GENERAL

Art. 1436d. Tractors or farm implements; removal, etc., of manufacturer's number or identification mark

Section 1. It shall be unlawful for any person, firm, association, or corporation to remove, alter, deface, cover, or destroy the manufacturer's serial number or other manufacturer's number or other distinguishing identification mark upon any tractor or farm implement for the purpose of concealing or destroying the identity of any such tractor or farm implement.

Sec. 2. It shall be unlawful for any person, firm, association or corporation to sell or offer for sale, any tractor or farm implement whose serial number or manufacturer's number, or other distinguishing identification mark has been removed, altered, defaced, covered or destroyed upon said tractor or farm implement.

Sec. 3. The provisions of this Act shall not apply to the machinery of any bona fide farmer who has had such machinery in his possession for a period of six (6) months and has used the same in the operation of his farm enterprise, nor to any second-hand machinery in the possession of an established dealer at the time of the passage of this Act.

Sec. 4. Any person violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed Two Hundred ($200.00) Dollars or by confinement in the county jail not to exceed six (6) months, or by both such fine and imprisonment. Acts 1953, 53rd Leg., p. 731, ch. 286.

Title of Act:

An Act making it unlawful to remove, alter, deface, cover or destroy the manufacturer's serial number or other manufacturer's number or other distinguishing identification mark upon any tractor or farm implement; making it unlawful for any person, firm, association, or corporation to sell or offer for sale, any tractor or farm implement whose serial number or manufacturer's number, or other distinguishing identification mark has been removed, altered, defaced, covered or destroyed upon said tractor or farm implement; prescribing penalties for violation of this Act; and declaring an emergency. Acts 1953, 53rd Leg., p. 731, c. 286.

CHAPTER THIRTEEN—PROTECTION OF STOCK RAISERS

FEEDING STUFF

Art. 1489. [730] Labeling of feeding stuff

Every lot or parcel of feeding stuff, used for feeding farm livestock, sold, offered or exposed for sale in bags or other individual containers in this State, for use within the State, shall bear or have attached thereto a label or tag carrying a plainly printed statement clearly and truly certifying the number of net pounds of feeding stuff in the package, stating the name or names of materials of which such weight is composed where the contents are of mixed nature, the name, brand or trademark under which the article is sold, the name and address of the manufacturer or importer, the place of manufacture, such information as is required by Article 3879, Revised Civil Statutes, if any, and a chemical analysis stating the minimum percentage it contains of crude protein, allowing one per cent (1%) of nitrogen to equal six and one-quarter per cent (6.25%) of protein, of crude fat, of nitrogen-free extract, and the maximum percentage it contains of crude fiber; these constituents to be determined by the methods adopted at the time by the Association of Official Agricultural Chemists of North America. If the feeding stuff is sold in bulk, the seller shall furnish to the purchaser a written or printed statement showing all the information required in the labeling of feeding stuff in individual containers. As amended Acts 1953, 53rd Leg., p. 826, ch. 333, § 3.

Sections 1 and 2 of the Act of 1953 amended Vernon's Ann.Civ.St. arts. 3872 and 3875. Sections 6, 7, 8 and 8a are published as Vernon's Ann.Civ.St. arts. 3881a to 3881d. Section 9 of the Act of 1953 provided that partial invalidity should not affect the validity of the remaining portions of the act. Section 10 repealed conflicting laws.

Art. 1492. [734] Inspection tax and tag

The manufacturer, importer, agent or seller of each feeding stuff shall, before the article is offered for sale, pay to the director of the Texas Agricultural Experiment Station an inspection tax of ten cents (10¢) for each ton of such feeding stuff sold, or offered for sale, in this State for use within the State, and shall affix to each lot shipped in bulk, and to each bag, barrel or other package of such feeding stuff, a tag to be furnished by said director, stating that all charges specified in this article have been paid. The director of said experiment station is hereby empowered to prescribe the form of such tags, and adopt such regulations as may be necessary for the enforcement of this law.

In lieu of the requirement for affixing the tax tag provided for in the preceding paragraph, upon application of any manufacturer, importer, agent, or seller to the director of the Texas Agricultural Experiment Station for a permit to report the tonnage of feeding stuff sold and to pay the inspection tax of ten cents (10¢) per ton on the basis of said report, the director shall grant the permit upon compliance with the following conditions:

(1) The applicant must agree to keep such records as may be necessary to indicate accurately the tonnage of feeding stuff sold;

(2) Before the permit is granted, the applicant must deposit with the director cash in the amount of One Thousand Dollars ($1,000) or securities acceptable to and approved by the director of a value of at least One

Thousand Dollars ($1,000), or must post with the director a surety bond payable to the State of Texas in the amount of One Thousand Dollars ($1,000), executed by a corporate surety company authorized to do business in Texas and approved by the director, conditioned upon the faithful performance of the provisions of this article; or must post with the director a bond with at least two good and sufficient and solvent personal sureties, payable to the State of Texas, in the amount of One Thousand Dollars ($1,000) and approved by the director, conditioned upon the faithful performance of the provisions of this article;

(3) If the home office or principal place of business of the applicant is located outside the State, the applicant must appoint in writing, the instrument of appointment to be deposited with the director, a resident agent upon whom service may be had in both civil and criminal actions filed by the State in the administration and enforcement of the provisions of Title 60 of the Revised Civil Statutes and Articles 1489 to 1498, inclusive, of the Penal Code. A sworn report of tonnage shall be filed in the office of the director within ten (10) days after the close of each quarter year ending with the last day of November, February, May, and August, covering the tonnage of feeding stuff sold during the preceding quarter, and shall be accompanied by the amount of tax due for that quarter. If the permittee fails to file the report or pay the tax within the time allowed herein, or if the amount of tonnage reported is less than the amount actually sold, the director shall revoke the permit after reasonable notice and opportunity for hearing. A penalty of ten per cent (10%) of any tax which is not paid within the time allowed shall be added to the amount of tax due, and the amount of the tax and the penalty shall constitute a debt and shall be recoverable out of the securities or bond hereinbefore referred to. Venue of all suits for the recovery of taxes and penalties shall be in the county in which the offense occurs. The director or his duly authorized representative shall have permission to examine the records of the permittee and verify the statement of tonnage sold during any period.

Whenever the manufacturer or importer or shipper of a feeding stuff shall have filed the certified statement provided for in Article 3874, and paid the inspection tax, no agent or seller of said manufacturer, importer or shipper shall be required to file such statement or pay such tax. The amount of the inspection tax and penalties received by said director shall be paid into the State Treasury. So much of the inspection tax and penalties collected under this title shall be paid by the State Treasurer to the Treasurer of the Texas Agricultural and Mechanical College as the director of the Texas Agricultural Experiment Station may show by his bills has been expended in performing the duties required by this title, but in no case to exceed the amount of the inspection tax and penalties received by the State Treasurer under this title.

It is the intent of this Act to allow payment of the tax levied herein either by use of tax tags or the reporting system or by a combination of both. As amended Acts 1953, 53rd Leg., p. 826, c. 333, § 4.

Art. 1493. [735] Failure to label or affix tax tag—false labeling

Any manufacturer, importer, agent, or seller who sells any feeding stuff in bulk without the statement required by Article 1489, or who sells, offers or exposes for sale any feeding stuff without the label required for bags or other individual containers by Article 1489 or without a tax tag when required by Article 1492 or with a statement or label stating that said feeding stuff contains a larger percentage of protein, fat or

nitrogen-free extract, or a smaller percentage of crude fiber, than is contained therein, shall be fined not exceeding Five Hundred Dollars ($500). As amended Acts 1953, 53rd Leg., p. 826, ch. 333, § 5.

CHAPTER FOURTEEN—DISEASES OF ANIMALS AND BEES

Art. 1525b. Eradicating diseases among live stock and domestic fowls

Vesicular exanthema, foot and mouth disease of swine, and hog cholera

Sec. 22a. The Livestock Sanitary Commission is hereby authorized to cooperate with the Bureau of Animal Industry, United States Department of Agriculture, for the eradication of Vesicular Exanthema, and other diseases of swine. The Commission shall provide in its rules and regulations the manner, method and system of testing swine for such diseases in such cooperative eradication work. The Commission shall have authority to order animals which are infected with Vesicular Exanthema, foot and mouth disease, and hog cholera to be sold for immediate slaughter at public slaughtering establishments where Federal post mortem inspection is maintained; or the Commission may authorize such slaughter upon the owner's property or premises or other place under the direction of the Commission. After such sale and slaughter the Commission is authorized to pay the owners of such animals out of funds appropriated by the Legislature for that purpose an amount not to exceed fifty per cent (50%) of the appraised value of such animals after deducting the amount of salvage received for them. No payment shall be made unless the owner or owners of such animals have complied with all the rules and regulations of the Commission applicable to the particular animals for which payment is to be made; nor shall any compensation be paid in excess of the amount of compensation paid said owners for such animals by the United States Bureau of Animal Industry. The value of such animals shall be appraised by a representative of the Commission, or of the Bureau, and a representative of the owner or owners thereof, and if they cannot agree, then a third appraiser shall be appointed by these two appraisers and the value shall then be fixed by any two of the three appraisers. If either party be not satisfied with the value as fixed by said appraisers, such party shall have the right to appeal to the Court in the County of the owners residence having jurisdiction of the amount in controversy, and the trial shall be de novo in the Court; the term de novo shall mean as the appeal from Justice Court to County Court is now defined. Added Acts 1953, 53rd Leg., p. 1041, ch. 429, § 1.

Feeding garbage to swine

Sec. 22b. (1) It shall be unlawful for any person to feed garbage to swine unless such garbage has been heated to a temperature of 212 degrees Fahrenheit (boiling point) for a period of thirty (30) consecutive minutes within forty-eight (48) hours prior to such feeding. The Livestock Sanitary Commission shall provide rules and regulations for the enforcement of this Act.

(2) The term "garbage" includes all of the refuse matter, animal or vegetable, and all putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of foods containing animal carcasses or parts thereof, and all waste material by-products of a restaurant, kitchen, cookery or slaughterhouse, and every refuse accumulation of animal, fruit or vegetable matter, liquid or otherwise, but shall not include material obtained from non-animal sources.

(3) "Person" includes any individual, any corporation public or private, any firm, any association, any partnership, and any other entity.

(4) Any person who violates any of the provisions of this Section shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than Twenty-five Dollars ($25) nor more than Five Hundred Dollars ($500), and each day of violation shall constitute a separate offense.

(5) No compensation provided for in Section 22a of this Act, shall be paid by the State to any owner of any animal ordered sold and slaughtered if such animal has been fed garbage in violation of the provisions hereof within one (1) year prior to the date of the order for sale and slaughter.

(6) This Section shall not apply to an individual who feeds to his own swine the garbage from his own household, his own farm, or his own ranch only. Added Acts 1953, 53rd Leg., p. 1041, ch. 429, § 1.

Section 2 of the Act of 1953 repealed conflicting laws or parts of laws. Section 3 provided that partial invalidity should not affect the remainder of the Act.

VETERINARIANS

Arts. 1526–1532. Repealed. Acts 1953, 53rd Leg., p. 844, ch. 342, § 22

Law regulating practice of veterinary medicine, see Vernon's Ann.Civ.St. art. 7465a.

TITLE 18—LABOR

CHAPTER SIX—WORKMEN AND FIREMEN

Art. 1583—2. Compensation of firemen and policemen in certain cities; increase in salary; election

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 Two ($2.00) Dollars per month for each year 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. This longevity or service pay shall be paid in addition to all other moneys paid for services rendered in said departments.

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 Two ($2.00) Dollars per month for each year of service in such Fire or Police Department up to and including twenty-five (25) years of service in such department, as a minimum wage for the services so rendered. This longevity or service pay shall be paid in addition to all other moneys paid for services rendered in said departments.

Provided, however, that in all cities in this State having a population in excess of ten thousand (10,000) according to the last preceding Federal Census, or any succeeding Federal Census, the minimum salary of each member of the Fire Department and of the Police Department may be increased to not less than the minimum amount stated in a petition signed by qualified voters in said city in number not less than twenty-five (25%) per cent of the total number voting in the last preceding municipal election. Said petition shall state the amount of the proposed minimum salary aforesaid, and when it is filed with the governing body of a city said governing body shall call an election within ninety (90) days after said petition has been so filed to determine whether said proposed minimum salary shall be adopted. If at said election a majority of the votes cast shall favor the adoption of said proposed minimum salary, said governing body shall put such salary into effect on or before the first day of the next fiscal year of said city. No other issue shall be joined on the same ballot with the proposition submitted at the election as herein provided. The question shall be submitted for the vote of the qualified electors as follows:

"FOR the proposed minimum salary of $_____per month for Firemen and Policemen"

"AGAINST the proposed minimum salary of $_____per month for Firemen and Policemen"

The requested salary set forth in the petition mentioned above shall be inserted in lieu of the blank spaces in said "FOR" and "AGAINST" clauses. When an election has been held in a city pursuant to the provisions of this Act, a petition for another election in said city shall not be filed for at least one year subsequent to the election so held. Nothing herein shall be construed to prevent the city concerned from adopting under the provisions of this Act without an election the minimum salary set forth in the petition filed with the governing body of said city. Acts 1953, 53rd Leg., p. 481, ch. 168, § 1.

Section 2 of the Act of 1953 repealed conflicting laws or parts of laws to the extent of the conflict only. Section 3 provided that partial invalidity should not affect the remaining portions of the Act.

TITLE 19—MISCELLANEOUS OFFENSES

CHAPTER TEN—NURSERY STOCK

Art. 1693. [719] Shipment

All nursery stock consigned for shipment, or shipped by freight, express or other means of transportation, shall be accompanied by a copy of said certificate attached to each car, box, bale, bundle or package.

When such box, bale, bundle or package contains nursery stock to be delivered to more than one person, partnership or corporation, each portion of such nursery stock to be so delivered shall also bear a copy of such certificate of inspection, and each individual delivery of nursery stock shall be packed in such a manner that the roots will be protected from air and loss of moisture. Whoever sends out or delivers within this State, trees, vines, shrubs, plants, buds or cuttings, commonly known as nursery stock, which are subject to the attacks of insects and diseases enumerated herein, unless he has in his possession a copy of said certificate, dated within a year thereof; or shall deface or destroy such certificate, or wrongfully be in possession of such certificate; or fail to attach proper tags on each shipment, such tags bearing a copy of said certificates, or fails to pack any such shipments in a manner that the roots will be protected from air and loss of moisture, shall be fined not less than Ten ($10.00) Dollars nor more than Two Hundred ($200.00) Dollars. As amended Acts 1953, 53rd Leg., p. 483, ch. 169, § 1.

Section 2 of the Act of 1953 provided that partial invalidity should not affect other parts of the Act.

Art. 1700. [728–9] Fraud in sales

It shall be unlawful to wilfully misrepresent nursery stock which is offered for sale or refuse to state where the same was propagated or the manner of propagation, or to sell, offer for sale, or deliver nursery stock which is untrue to name, dead, or devitalized to such an extent as to be unfit for sale; and whoever knowingly makes any false representation of the name, quality or nature of any nursery product for the purpose of inducing any vendee to buy the same, or who knowingly delivers to any vendee any such product other than that contracted for, shall be fined not less than One Hundred ($100.00) Dollars nor more than Five Hundred ($500.00) Dollars, or imprisoned in jail not less than thirty days nor more than six months, or both. The Statute of Limitation shall not begin to run against a prosecution under this Article until such product shall have developed and disclosed the fraud. Acts 1953, 53rd Leg., p. 437, ch. 125, § 1.

Section 2 of the amendatory Act of 1953 provided that partial invalidity shall not affect other parts of the Act.

THE

CODE OF CRIMINAL PROCEDURE

TITLE 2—COURTS AND CRIMINAL JURISDICTION

PARTICULAR DISTRICT COURTS AND SIMILAR COURTS

BEXAR COUNTY CRIMINAL DISTRICT COURT

Art. 52—161. Criminal Judicial District of Bexar County; creation, jurisdiction, officers, etc.

Sec. 15a. The Criminal District Attorney of Bexar County, for the purpose of effectively carrying out the probation and parole laws of this State, shall be and is hereby authorized to appoint a Probation and Parole Officer for Bexar County, where a probation and parole officer has not been assigned to any court and/or district in said county in accordance with the provisions of Chapter 452, Acts of the 50th Legislature, 1947, known as the Adult Probation and Parole Law and codified as Article 781b in Vernon's Texas Code of Criminal Procedure.

The salary of such Probation and Parole Officer shall be set by the Commissioners Court at not less than Four Thousand, Eight Hundred ($4,800.00) Dollars per annum and shall be paid out of the general fund of the county. Clerical assistants, when deemed necessary by the Criminal District Attorney and approved by the Commissioners Court, shall be appointed by the Criminal District Attorney and their salaries shall be paid from the general fund of the county. All necessary and reasonable expenses, including an automobile allowance of at least Fifty ($50.00) Dollars per month, of such Probation and Parole Officer or other employees incurred in the performance of their duties and the conduct of such office shall be paid by the Commissioners Court out of the general fund of the county.

The Probation and Parole Officer should be of good moral character and acquainted with the Adult Probation and Parole Law. Such officer and his clerical assistants shall be subject to removal at the will of the Criminal District Attorney.

The Probation and Parole Officer shall be a peace officer, and the authority and duties of such officer shall be the same as those prescribed for probation and parole officers by the Adult Probation and Parole Law.

The Commissioners Court upon the request of the Criminal District Attorney shall provide office space for such officer. Added Acts 1953, 53rd Leg., p. 711, ch. 274, § 1.

Emergency. Effective June 4, 1953.

Sections 2 and 3 of the amendatory Act of 1953, read as follows:

"Sec. 2. The Commissioners Court of Bexar County is hereby authorized and directed to amend the county budget for

the fiscal year of 1953 from and at the effective date of this Act for the balance of the said fiscal year in order to provide for the salaries of such Probation and Parole Officer and such other employees of such office, if any, and for all reasonable and necessary expenses of such office as herein provided.

"Sec. 3. Nothing in this Act shall be construed as repealing Chapter 452, Acts of the 50th Legislature, 1947, except as to provide an alternate method of appointment of a Probation and Parole Officer where such an officer has not been assigned to any court and/or district in Bexar County as provided in that Act."

TITLE 6—SEARCH WARRANTS

5. DISPOSITION OF SEIZED PROPERTY

Art. 332a. Sale of unclaimed or abandoned property

Section 1. All unclaimed or abandoned personal property, except whiskey, wine and beer, of every kind, seized by the Sheriff of any county in the State of Texas, which is not held as evidence to be used in any pending case and has not been ordered destroyed or returned to the person entitled to possession of the same by any Justice of the Peace, County Judge or District Judge, which shall remain unclaimed for a period of ninety (90) days without being claimed or reclaimed by the owners, whether known or not, shall be delivered to the Purchasing Agent of the county for sale. If the county has no Purchasing Agent, the Sheriff of the County shall be authorized to sell same.

Sec. 2. Thirty (30) days notice of the time and place of sale and a descriptive list of the articles or property to be sold, with the names of the alleged owners if known, shall be posted in three (3) public places in the county where the sale is to be made and a copy thereof mailed to the person from whom the possession was taken, at his last known address.

All money received from said sale shall be paid and delivered to the County Treasurer and credited to the General Fund for the use and benefit of the county. Any property remaining on hand for which no bids were received shall be disposed of in such manner as the Sheriff of said county shall deem advisable. Acts 1953, 53rd Leg., p. 929, ch. 388.

Emergency. Effective June 8, 1953.

Title of Act:

An Act authorizing the Sheriff or Purchasing Agent of any county of the State of Texas to sell and dispose of any unclaimed or abandoned personal property, except whiskey, wine and beer, belonging to arrested persons or prisoners placed in the county jail; providing for notice of sale; providing for disposition of funds derived from sale, and property unsold; and declaring an emergency. Acts 1953, 53rd Leg., p. 929, ch. 388.

TITLE 7—AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

CHAPTER FOUR—PROCEEDINGS PRELIMINARY TO TRIAL

Art. 563. 629, 616 Where jury cannot be procured

When an unsuccessful effort has been once made in any county to procure a jury for the trial of a felony, or in any county having a population of less than two thousand, five hundred (2,500) according to the last preceding Federal Census for the trial of a misdemeanor pending in the County Court of any such county, and all reasonable means have been used, if it be made to appear to the court by the affidavit of the attorney for the State, or any other credible person, that no jury can probably be had in that county, the court may order a change of venue, and cause the reasons therefor to be placed upon the minutes of the proceedings.

Whenever the court shall order a change of venue for the trial of a misdemeanor case, process for any witness in such case shall be issued and served in the county or out of the county where the prosecution is then pending and have the same binding force and effect as though the offense being prosecuted were a felony; and all officers issuing and serving such process in or out of the county wherein the prosecution is then pending, and all witnesses from within or without the county wherein the prosecution is then pending, shall be compensated in like manner as though the offense were a felony in grade, provided, however, that the cost of compensating officers and such witnesses in the case of a misdemeanor shall be paid out of the General Funds of the county wherein the complaint was originally filed. As amended Acts 1953, 53rd Leg., p. 713, ch. 276, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Art. 564. 630, 617 Time to make application

An application for a change of venue may be heard and determined before either party has announced ready for trial; but, in all cases before a change of venue is ordered, all motions to set aside the indictment, and in any county having a population of less than two thousand, five hundred (2,500) according to the last preceding Federal Census, all motions to set aside the information or complaint, and all special pleas and exceptions which are to be determined by the Judge, and which have been filed, shall be disposed of by the court, and, if overruled, the plea of not guilty entered. As amended Acts 1953, 53rd Leg., p. 713, ch. 276, § 2.

Effective 90 days after May 27, 1953, date of adjournment.

TITLE 8—TRIAL AND ITS INCIDENTS

CHAPTER FIVE—THE TRIAL BEFORE THE JURY

Art. 658. 735–736 Charge of court

In each felony case and in each misdemeanor case tried in a court of record, the Judge shall, before the argument begins, deliver to the jury, except in pleas of guilty, where a jury has been waived, a written charge distinctly setting forth the law applicable to the case; not expressing any opinion as to the weight of the evidence, not summing up the testimony, discussing the facts or using any argument in his charge calculated to arouse the sympathy or excite the passions of the jury. Before said charge is read to the jury, the defendant or his counsel shall have a reasonable time to examine the same and he shall present his objections thereto in writing, distinctly specifying each ground of objection. Said objections may embody errors claimed to have been committed in the charge, as well as errors claimed to have been committed by omissions therefrom or in failing to charge upon issues arising from the facts, and in no event shall it be necessary for the defendant or his counsel to present special requested charges to preserve or maintain any error assigned to the charge, as herein provided. As amended Acts 1953, 53rd Leg., p. 486, ch. 172, § 1.

Emergency. Effective May 19, 1953.

Section 2 of the amendatory Act of 1953 repealed Articles 662 and 663.

Art. 659. 737, 717 Requested special charges

Before the court reads his charge to the jury, counsel on both sides shall have a reasonable time to present written instructions and ask that they be given to the jury. The court shall give or refuse these charges with or without modification, and certify thereto; and when the court shall modify a charge it shall be done in writing and in such manner as to show clearly what the modification is. The defendant may, by a special requested instruction, call the trial court's attention to error in the charge, as well as omissions therefrom, and no other exception or objection to the court's charge shall be necessary to preserve any error reflected by any special requested instruction which the trial court refuses. As amended Acts 1953, 53rd Leg., p. 485, ch. 171, § 1.

Emergency. Effective May 19, 1953.

Arts. 662, 663 Repealed. Acts 1953, 53rd Leg., p. 486, ch. 172, § 2. Eff. May 19, 1953

Charge in misdemeanor cases, see art. 658.

Art. 667. 744, 724 Bill of exceptions

The defendant, by himself or counsel, may tender his bills of exception to any decision, opinion, order or charge of the court or other proceedings in the case; and the Judge shall sign such bills of exception, under the rules prescribed in civil suits, in order that such decision, opinion, order, or charge may be revised upon appeal. The bills of exception may be in narrative form or by questions and answers, and no par-

ticular form of words shall be required. Where the matter about which complaint is made and the trial court's ruling thereon reasonably appear from any formal or informal bill of exception, same shall be considered upon appeal, regardless of whether or not the bill of exception is multifarious or relates to more than one subject, complaint, or objection. Where the argument of State's counsel about which complaint is made in a bill of exception is manifestly improper, or violates some mandatory statute, or some new fact is thereby injected into the case, it shall not be necessary that the bill of exception negative that the argument was not invited, or in reply to argument of defendant or his counsel, or any other fact by which the argument complained of may have been authorized. If such matters exist, the trial court by qualification or otherwise, may require the bill of exception to reflect any reason whereby the argument complained of would not be error. As amended Acts 1953, 53rd Leg., p. 670, ch. 254, § 1.

Effective 90 days after May 27, 1953, date of adjournment.

Section 1c of the amendatory Act of 1953 provided that partial invalidity should not affect the remaining portion of the Act.

Art. 678. 755, 735 Jury may have witness reexamined or testimony read

In the trial of any criminal case in any District Court, Criminal District Court, or County Court, County Criminal Court, or County Court at Law, of this State, if the jury disagree as to the statement of any witness they may, upon applying to the court, have read to them from the court reporter's notes that part of such witness's testimony on the particular point in dispute, and no other; but if there be no such reporter, or if his notes cannot be read to the jury, the court may cause such witness to be again brought upon the stand and the Judge shall direct him to repeat his testimony as to the point in dispute, and no other, as nearly as he can in the language used on the trial. As amended Acts 1953, 53rd Leg., p. 906, ch. 373, § 1.

Emergency. Effective June 8, 1953.

Section 2 of the amendatory Act of 1953 repealed conflicting laws and parts of laws only in so far as in conflict.

CHAPTER SEVEN—EVIDENCE IN CRIMINAL ACTIONS

4. DYING DECLARATIONS AND CONFESSIONS

Art. 727a. Evidence not to be used

No evidence obtained by an officer or other person in violation of any provision of the Constitution or laws of the United States or of this State shall be admitted in evidence against the accused on the trial of any criminal case. As amended Acts 1953, 53rd Leg., p. 669, ch. 253, § 1.

Emergency. Effective June 4, 1953.

TITLE 9—PROCEEDINGS AFTER VERDICT

CHAPTER ONE—NEW TRIALS

Art. 759a. Statement of facts and bills of exception

Designation of portions of evidence

D. Within fifteen (15) days after notice of appeal is given and where a request is made of the official court reporter for the preparation of a transcript of all or any part of the evidence adduced on trial of the case, or whenever, with or without such a request, a statement of facts is filed or offered for filing by appellant, the appellant shall deliver or mail to the attorney for the state and file with the clerk of the court a designation in writing of the portions of the evidence desired, and shall specify the portions desired in narrative form, if any, and the portions desired in question and answer form, if any, and the portions that are desired to be omitted. Within ten (10) days thereafter, any party to the appeal may file a designation in writing of any additional portions of the evidence to be included, specifying the portions to be requested and whether desired in narrative form or question and answer form, and the opposing party, if dissatisfied with a narrative form of such evidence, may require the testimony in question and answer form to be substituted for all or a part of such additional portions so requested. As amended Acts 1953, 53rd Leg., p. 670, ch. 254, § 1A.

Form and contents of bill of exceptions; excluded testimony; formal exceptions unnecessary

Sec. 2. (a) Where the statement of facts in question and answer form reflects the admission or rejection of testimony objected to or offered by the defendant, the defendant's objection thereto, the evidence rejected, the court's ruling thereon, or the said statement of facts shows any ruling or opinion or other action of the court, with the defendant's objection thereto, he may except thereto at the time the said ruling is made or announced or such action taken, and such statement of facts shall constitute a bill of exception to such ruling, opinion or other action of the court, and no formal bill of exception thereto shall be necessary. The defendant may, however, prepare and have filed a formal bill of exception if he so desires. Where the defendant offers testimony which is rejected by the court, the judge, if requested by defense counsel, shall immediately retire the jury and hear such testimony to allow defendant to perfect his bill of exception. Such rejected testimony may be carried in the statement of facts and may be considered a bill of exception.

(b) Formal exceptions to rulings on evidence, opinions or other action of the court, as provided in Subdivision (a) above, are unnecessary; but for all purposes for which an exception has heretofore been necessary, it is sufficient that a party, at the time the ruling, opinion, or action of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and if a party has no opportunity to object to the ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him. As amended Acts 1953, 53rd Leg., p. 670, ch. 254, § 1B.

Effective 90 days after May 27, 1953, date of adjournment.

Section 1c of the amendatory Act of 1953 provided that partial invalidity should not affect the remaining portion of the Act.

CHAPTER THREE—JUDGMENT AND SENTENCE

1. IN CASES OF FELONY

Art. 781b. Adult Probation and Parole Law

Sec. 17. Repealed. Acts 1953, 53rd Leg., p. 489, ch. 175, § 2. Eff. May 19, 1953.

Release or discharge, see Vernon's Ann. Civ.St., art. 6166z1.

TITLE 13—INQUESTS

1. UPON DEAD BODIES

Art. 970b. Consent to autopsy

Section 1. Consent for a licensed physician to conduct an autopsy of the body of a deceased person shall be deemed sufficient when given by the following: In the case of a married person, the surviving spouse, or if no spouse survive him, by any child of such marriage, or in the event of a minor child of such marriage, the guardian of such child if any there be, or in the absence of such guardian, the court having jurisdiction of the person of such minor; in the event that neither spouse nor child survives such deceased, then permission for an autopsy shall be valid when given by a person who would be allowed to give such permission in the case of an unmarried deceased:

If the deceased be unmarried, then permission shall be given by the following for such autopsy, in the order stated: father, mother, guardian, or next of kin, and in the absence of any of the foregoing, by any natural person assuming custody of and responsibility for burial of the body of such deceased. If two (2) or more of the above named persons assume custody of the body, consent of one (1) of them shall be deemed sufficient.

Sec. 2. For purposes of this Act, "licensed physician" shall be defined as any person duly licensed by the Texas State Board of Medical Examiners, and whose license is current in all respects.

Sec. 3. In the event any Section, part of Section, or provision of this Act shall be held invalid, unconstitutional, or inoperative, such holding shall not affect the validity of the remaining Sections, parts of Sections or provisions of this Act, but the remainder of the Act shall be given effect as if said invalid, unconstitutional, or inoperative Section, part of Section, or provision had not been included. Acts 1953, 53rd Leg., p. 573, ch. 216.

Emergency. Effective May 27, 1953.

Title of Act:

An Act providing proper parties to give consent for autopsies on bodies of deceased persons; containing a saving clause; and declaring an emergency. Acts 1953, 53rd Leg., p. 573, ch. 216.

TITLE 15—COSTS IN CRIMINAL ACTIONS

CHAPTER THREE—COSTS PAID BY COUNTIES

Art. 1038. 1140, 1095 Food and lodging of jurors

The Sheriff of each County shall, with the approval of the Commissioners Court, provide food and lodging for jurors empaneled in a felony case and jurors so empaneled shall be paid as other jurors are paid, in addition to such food and lodging. As amended Acts 1953, 53rd Leg., p. 918, ch. 380, § 1.

Emergency. Effective June 8, 1953.

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 Four Dollars ($4) shall be paid to the Justice of the Peace for each criminal action tried and finally disposed of before him. 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. 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 1953, 53rd Leg., p. 852, ch. 344, § 1.

Effective 90 days after May 23, 1953, date of adjournment.

Section 2 of the amendatory Act of 1953 provided that partial invalidity should not affect the remaining portions of the act. Section 3 repealed conflicting laws or parts of laws.

Art. 1056. 1158–60 Pay of jurors

Each Juror in each district or criminal district court, county court, or county court at law except special veniremen and talesmen challenged on their voir dire whose pay is now fixed by law, shall receive not less than Four Dollars ($4) and not more than Five Dollars ($5) for each day and for each fraction of a day he attends court as such juror, to be paid out of the jury fund of the county. The amount of compensation shall be determined by the Commissioners Court of each county annually within the minimum and maximum prescribed herein. Jurors in justice courts who serve in the trial of criminal cases in such courts shall receive fifty cents (50¢) in each case they sit as jurors, provided that no juror in such court shall receive more than One Dollar ($1) for each day or fraction of a day he may so serve as such juror. Grand Jurors shall each receive not

less than Four Dollars ($4) and not more than Five Dollars ($5) for each day or fraction of a day that they may serve as such. The amount of compensation shall be determined by the Commissioners Court of each county annually within the minimum and maximum prescribed herein. The same per diem shall be paid to all persons responding to the process of the court but who are excused by the court from jury service for any cause, after being tested on their voir dire. As amended Acts 1953, 53rd Leg., p. 917, ch. 379, § 2.

CHAPTER FOUR—COSTS TO BE PAID BY DEFENDANT

Art. 1074. 1184, 1134 Trial fee

In each case of conviction in a County Court, or a County Court at Law, whether by a jury or by a Court, there shall be taxed against the defendant or against all defendants, when several are held jointly, a trial fee of Five Dollars ($5), the same to be collected and paid over in the same manner as in the case of a jury fee, and in the Justice Court the trial fee shall be the sum of Five Dollars and fifty cents ($5.50). As amended Acts 1953, 53rd Leg., p. 852, ch. 344, § 1A.

Effective 90 days after May 23, 1953, date of adjournment.

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